First print



New South Wales

University Legislation Amendment Bill 2004

Explanatory note

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

Overview of Bill

Under section 33-15 of the *Higher Education Support Act 2003* of the Commonwealth, higher education providers are required to meet the requirements of the Commonwealth's National Governance Protocols for higher education providers to qualify for increased Commonwealth funding. The object of this Bill is to amend the Acts that establish universities in New South Wales to the extent necessary to enable the Universities to comply with those requirements.

In relation to each University, the amendments:

(a) alter, and impose requirements in relation to, the composition of the University's governing body (including limiting its membership to no more than 22 members, removing the requirement that it include members of Parliament, allowing the Minister to appoint members of Parliament as members only if on the nomination of the governing body, requiring the majority of its members to be external to the University, requiring its members to possess certain expertise and experience, and requiring procedures for the nomination of appointed members to be set out in the University's by-laws), and

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- (b) particularise certain of the functions of the University's governing body (including overseeing the University's performance, approving the University's mission, strategic direction, annual budget and business plan, overseeing risk management across the University, approving and monitoring the University's systems of accountability, ensuring that the University's grievance procedures and associated information are published in a form that is readily accessible to the public, regularly reviewing its own performance, adopting a statement of its primary responsibilities, and making available a program of induction and development for its members), and
- (c) note generally the governing body's obligations under the Annual Reports (Statutory Bodies) Act 1984, and
- (d) impose requirements on the governing body relating to the control and monitoring of entities controlled by the University, and
- (e) provide for the duties of members of the University's governing body (being to act in the best interests of the University, to exercise care and diligence, to not improperly use the position of member or improperly use information, and to disclose material interests to avoid a conflict of interest) and for removal of a member from office for breach of duty if such a motion is supported by a two-thirds majority of members of the governing body, and
- (f) require the Minister and the governing body to take into account the need to maintain an appropriate balance of experienced and new members when appointing members and (in the case of the governing body) when making by-laws with respect to the terms of elected members and provide (except where a more stringent limit is already provided for in the University's Act) that the maximum incumbency for a member of the governing body is 12 consecutive years unless the governing body otherwise resolves, and
- (g) alter the grounds on which the office of member of the governing body is vacated (most significantly by requiring the office of a member of the governing body to be vacated if the member is or becomes disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth), and
- (h) enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act, and insert other provisions of a savings or transitional nature (including in relation to the constitution and continuity of the governing body, the application of the proposed provisions dealing with the removal from office of a member of the governing body for breach of duty, and the period to be counted for the purposes of the proposed provision dealing with the maximum incumbency for members of the governing body).

Explanatory note

The Bill also:

- (a) incorporates certain uncommenced amendments from the University Legislation (Amendment) Act 1994 that replace the provisions in the Macquarie University Act 1989 and the Southern Cross University Act 1993 relating to the making of rules with provisions (parallel to those contained in the other Universities' Acts) that make it clear that the by-laws may authorise the making of rules with respect to matters for which by-laws may be made (except with respect to matters such as the constitution of, and the election of members to, the University's governing body, the offices of Chancellor and Deputy Chancellor, and the making, publication and inspection of rules), and
- (b) repeals the University Legislation (Amendment) Act 1994 and the Statute Law (Miscellaneous Provisions) Act (No 2) 1999, and
- (c) makes a number of ancillary and consequential amendments to the Universities' Acts.

The amended Acts are as follows:

Charles Sturt University Act 1989 No 76

Macquarie University Act 1989 No 126

Southern Cross University Act 1993 No 69

University of New England Act 1993 No 68

University of New South Wales Act 1989 No 125

University of Newcastle Act 1989 No 68

University of Sydney Act 1989 No 124

University of Technology, Sydney, Act 1989 No 69

University of Western Sydney Act 1997 No 116

University of Wollongong Act 1989 No 127

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 the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the Acts amended by Schedules 1–10.

Clause 4 repeals the *Statute Law (Miscellaneous Provisions) Act (No 2) 1999* (the only unspent provisions of which amend the *Macquarie University Act 1989* in relation to the constitution of its governing body).

Clause 5 repeals the University Legislation (Amendment) Act 1994 (the only unspent provisions of which will become redundant as a result of the proposed amendments described in the Overview to the Macquarie University Act 1989 and the Southern Cross University Act 1993 that replace the provisions in those Acts relating to the making of rules).

Explanatory note

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 *Southern Cross University Act 1993*.

Schedule 4 makes the amendments described in the Overview to the University of New England Act 1993.

Schedule 5 makes the amendments described in the Overview to the *University of New South Wales Act 1989*.

Schedule 6 makes the amendments described in the Overview to the *University of Newcastle Act 1989*.

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.

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University Legislation Amendment Bill 2004

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New South Wales

University Legislation Amendment Bill 2004

No , 2004

A Bill for

An Act to amend certain Universities' Acts to enable the Universities to meet the requirements of the National Governance Protocols for higher education providers of the Commonwealth; and for other purposes.

The	Legislature of New South Wales enacts:	1
1	Name of Act	2
	This Act is the University Legislation Amendment Act 2004.	3
2	Commencement	4
	This Act commences on the date of assent.	5
3	Amendment of Acts	6
	Each Act specified in Schedules $1-10$ is amended as set out in those Schedules.	7 8
4	Repeal of Statute Law (Miscellaneous Provisions) Act (No 2) 1999 No 85	9
	The Statute Law (Miscellaneous Provisions) Act (No 2) 1999 is repealed.	10 11
5	Repeal of University Legislation (Amendment) Act 1994 No 16	12
	The University Legislation (Amendment) Act 1994 is repealed.	13

Amendment of Charles Sturt University Act 1989 No 76

Schedule 1			ndment of Charles Sturt University 1989 No 76	1 2	
				(Section 3)	3
[1]	Sect	ion 3	Definitions		4
	Inser	rt after	section 3 (3):	5
		(4)	Notes incl	uded in this Act do not form part of this Act.	6
[2]	Sect	ions 8	A and 9		7
	Omi	t sectio	n 9. Insert i	nstead:	8
	8A	The	Council		9
		(1)		be a Council of the University.	10
		(2)	The Coun	cil is the governing authority of the University and has ons conferred or imposed on it by or under this Act or	11 12 13
	9 Constitution of Council				14
		(1)	The Coun	cil is to consist of:	15
			(a) 3 of	fficial members, being:	16
			(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	17 18
			(ii)	· ·	19
			(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor), and	20 21 22 23 24
			(b) 6 ex	sternal persons appointed by the Minister, and	25
				or more external persons (being such number as is scribed by the by-laws) appointed by the Council, and	26 27
			· / •	ersons:	28
			(i)	who are members of the academic staff of the University, and	29 30
			(ii)	who have such qualifications as may be prescribed by the by-laws, and	31 32

Schedule 1	Amendment of Charles Sturt University Act 1989 No 76
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		(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
	(e)	one p	person:	4
		(i)	who is a member of the general staff of the University, and	5 6
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	7 8
		(iii)	who is elected by members of the general staff of the University in the manner prescribed by the by-laws, and	9 10 11
	(f)	2 per	sons:	12
		(i)	who are students of the University but who are not members of the academic or general staff of the University, and	13 14 15
		(ii)	who have such qualifications as may be prescribed by the by-laws, and	16 17
		(iii)	who are elected by students of the University in the manner prescribed by the by-laws, and	18 19
	(g)		or more external persons (being such number as is cribed by the by-laws):	20 21
		(i)	who are graduates of the University, and	22
		(ii)	who have such qualifications as are prescribed by the by-laws, and	23 24
		(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	25 26 27
(2)	purp num	oses of ber of	is may not prescribe a number of members for the f subsection (1) (c) or (g) that when added to the other members to be appointed or elected to the bull exceed 22.	28 29 30 31
(3)			appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	32 33
(4)	Parli	ament	ter may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only n is nominated by the Council for appointment.	34 35 36
			an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	37 38

[3]

Amendment of Charles Sturt University Act 1989 No 76

(5)) Of the members of the Council:				
	(a)	at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	2 3 4 5		
	(b)	at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	6 7 8		
(6)	exper and a	ppointed members of the Council must have expertise and rience relevant to the functions exercisable by the Council in appreciation of the object, values, functions and activities e University.	9 10 11 12		
(7)	The perso	majority of members of the Council must be external ons.	13 14		
(8)	(8) The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.				
(9)		dule 1 has effect in relation to the members and procedure of council.	17 18		
(10)	(10) A reference in this section to external persons is a reference to persons who are not members of the academic or general staff of the University or undergraduate or postgraduate students of the University.				
Section 19	Funct	ions of Council	23		
Insert after	sectior	n 19 (1A):	24		
(1B)	(1A),	out limiting the functions of the Council under subsection , the Council is, in controlling and managing the affairs and erns of the University:	25 26 27		
	(a)	to monitor the performance of the Vice-Chancellor, and	28		
	(b)	to oversee the University's performance, and	29		
	(c)	to oversee the academic activities of the University, and	30		
	(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	31 32		
	(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	33 34 35 36 37 38		

Schedule 1 Amendment of Charles Sturt University Act 1989 No 76

	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 19A), and	1 2 3
	(g)	to approve significant University commercial activities (within the meaning of section 24A), and	4 5
	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	9 10 11 12
	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
	(k)	to adopt a statement of its primary responsibilities, and	16
	(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
[4]	Section 19, note		20
	Insert at the end of	f the section:	21
	makin Cound risk ma	The Annual Reports (Statutory Bodies) Act 1984 regulates the g of annual reports to Parliament by the Council and requires the cil to report on the University's operations (including in relation to anagement and insurance arrangements) and a range of financial ther matters.	22 23 24 25 26
[5]	Section 19A Cont	trolled entities	27
	Omit "This section	n does not itself confer" from section 19A (4).	28
	Insert instead "Not	thing in the preceding subsections confers".	29
[6]	Section 19A (5)		30
	Omit "This section	n does not affect".	31
	Insert instead "Not	thing in the preceding subsections affects".	32

Amendment of Charles Sturt University Act 1989 No 76

[7]	Section 19A (5A)				
	Inser	t after	section 19	A (5):	2
		(5A)	The Council is, as far as is reasonably practicable, to ensure:		3
			(a) that	at the governing bodies of controlled entities:	4
			(i) possess the expertise and experience necessary to provide proper stewardship and control, and	5 6
			(ii) comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	7 8 9
			(iiij) adopt and evaluate their own governance principles, and	10 11
			(iv)) document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	12 13 14
				at a protocol is established regarding reporting by verning bodies of controlled entities to the Council.	15 16
[8]	Part	4A			17
	Insert after Part 4: Part 4A Duties of Council members			18	
				19	
	24F Duties of Council members		20		
	24F	Dutie	es of Cour	icii members	20
	24F	Dutie		bers of the Council have the duties set out in Schedule 3.	20
	24F 24G		The mem		
			The mem oval from The Cour	bers of the Council have the duties set out in Schedule 3.	21 22 23
		Remo	The mem oval from The Cour for breac The remo Council o	office for breach of duty ncil may remove a member of the Council from office h of a duty set out in Schedule 3. oval from office may be effected only at a meeting of the of which notice (including notice of the motion that the concerned be removed from office for breach of duty)	21
		Rem (1)	The mem oval from The Cour for breac The remo Council of member was duly The remo removal i	office for breach of duty ncil may remove a member of the Council from office h of a duty set out in Schedule 3. oval from office may be effected only at a meeting of the of which notice (including notice of the motion that the concerned be removed from office for breach of duty)	21 22 23 24 25 26 27

Schedule 1	Amendment of Charles Sturt University Act 1989 No 76
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	(5)	atten motio	e member to whom the motion for removal refers does not d the meeting, a reasonable opportunity to reply to the on is taken to have been given if notice of the meeting has duly given.	1 2 3 4
	(6)		ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	5 6
[9]	Section 31	By-lav	ws	7
	Omit "(othe	er than	the parliamentary members)" from section 31 (1) (b).	8
[10]	Section 32	Rules	i	g
	Omit "9 (6) clauses 1 (6), 10 (2 l)" fror	2), 15 (1), 19 (1) (d) and (e), 26 and 31 (1) (b) and (k) and m section 32 (1).	10 11
	Insert inste 31 (1) (b) a	ad "9 (nd (k)	(1) (c)–(g) and (8), 10 (2), 15 (1), 19 (1) (d) and (e), 26 and and clauses 1 (1) (c) and (d)".	12 13
[11]	Schedule 1	Provi	sions relating to members and procedure of the Council	14
	Omit clause	es 1 an	d 2. Insert instead:	15
	1 Tern	n of of	fice	16
	(1)	Subje follo	ect to this Act, a member of the Council holds office as ws:	17 18
		(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	19 20
		(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	21 22 23
		(c)	in the case of an elected member referred to in section 9 (1) (d), (e) or (f), for such term (not exceeding 2 years) as may be prescribed by the by-laws,	24 25 26
		(d)	in the case of a member referred to in section 9 (1) (g), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	27 28 29 30 31
	(2)	The new 1	need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	32 33
		(a)	by the Council, when making the by-laws required under this clause, and	34 35
		(b)	by the Minister and the Council, when appointing members to the Council.	36 37

Amendment of Charles Sturt University Act 1989 No 76

	(3)	cons	erson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Council otherwise lives in relation to the person).	1 2 3
2	Vaca	ation o	of office	4
		The mem	office of a member of the Council becomes vacant if the uber:	5 6
		(a)	dies, or	7
		(b)	declines to act, or	8
		(c)	resigns the office by writing under his or her hand addressed:	9 10
			(i) in the case of a member appointed by the Minister, to the Minister, or	11 12
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	13 14
			(iii) in the case of an elected member, to the Vice-Chancellor, or	15 16
		(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estate for their benefit, or	17 18 19 20
		(e)	becomes a mentally incapacitated person, or	21
		(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	22 23 24 25 26
		(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	27 28 29
		(h)	is removed from office by the Council pursuant to section 24G, or	30 31
		(i)	is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Council for his or her absence, or	32 33 34 35 36
		(j)	in the case of an elected member, or a member appointed under section 9 (1) (g), ceases to be qualified for election or appointment, or	37 38 39

Schedule 1	Amendment of Charles Sturt University Act 1989 No 76
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		(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	1 2
		(l)	in the case of a member appointed by the Council, is removed from office by the Council.	3 4
[12]	Sch	edule 1, clau	se 3 (2)	5
	Omi	t "(otherwise	than to fill the office of a parliamentary member)".	6
[13]	Sch	edule 3		7
	Inser	rt after Sched	ule 2:	8
	Scl	nedule 3	Duties of Council members	9
			(Section 24F)	10
	1	Duty to act	t in best interests of University	11
		A me	ember of the Council must carry out his or her functions:	12
		(a)	in good faith in the best interests of the University as a whole, and	13 14
		(b)	for a proper purpose.	15
	2	Duty to exe	ercise care and diligence	16
		reasc	ember of the Council must act honestly and exercise a onable degree of care and diligence in carrying out his or her tions.	17 18 19
	3	Duty not to	o improperly use position	20
			ember of the Council must not make improper use of his or position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	4	Duty not to	o improperly use information	26
			nember of the Council must not make improper use of mation acquired because of his or her position:	27 28
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	29 30
		(b)	to cause detriment to the University.	31

Amendment of Charles Sturt University Act 1989 No 76

5	Disc	osure of material interests by Council members						
	(1)	If:		2				
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	3 4 5				
		(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	6 7 8				
		come	nember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the est at a meeting of the Council.	9 10 11				
	(2)		sclosure by a member of the Council at a meeting of the neil that the member:	12 13				
		(a)	is a member, or is in the employment, of a specified company or other body, or	14 15				
		(b)	is a partner, or is in the employment, of a specified person, or	16 17				
		(c)	has some other specified interest relating to a specified company or other body or to a specified person,	18 19				
		relati may a	ufficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	20 21 22 23				
	(3)	recor book	culars of any disclosure made under this clause must be rded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the neil.	24 25 26 27 28				
	(4)	intere	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	29 30 31				
		(a)	be present during any deliberation of the Council with respect to the matter, or	32 33				
		(b)	take part in any decision of the Council with respect to the matter.	34 35				
	(5)	under	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	36 37 38				
		(a)	be present during any deliberation of the Council for the purpose of making the determination, or	39 40				

	(b)	take par determina		the	making	by	the	Counci	il of	the		1 2
(6)	A contravention of this clause does not invalidate any decision of the Council.											3 4
(7)	This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on any question relating to, the person's removal from office by the Council pursuant to section 24G.											5 6 7 8
(8)	and th	This clause applies to a member of a committee of the Council and the committee in the same way as it applies to a member of the Council and the Council.										9 10 11
(9)	For the purposes of this clause, a member has a material interest in a matter if a determination of the Council in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.										12 13 14 15	
(10)	In this clause:										16	
	associate of a member means any of the following:									17		
	(a)	the spous business							er or s	ister,		18 19
	(b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,										20 21 22	
	(c)	any other other than that perso	that	perso	n's conne	ection						23 24 25
Schedule 4 Savings and transitional provisions										26		
Insert at the end of clause 1 (1):										27		
University Legislation Amendment Act 2004										28		

[14]

Amendment of Charles Sturt University Act 1989 No 76

[15]	Schedule 4, Part 6 Insert after Part 5:								
	Par	t 6 Provisions consequent on enactment of University Legislation Amendment Act 2004							
	41 De		Definitions						
			In this Part: <i>amending Act</i> means the <i>University Legislation Amendment Act</i> 2004.	7 8 9					
			<i>former section 9</i> means section 9 as in force immediately before its substitution by the amending Act.	10 11					
			<i>new section 9</i> means section 9 as substituted by the amending Act.	12 13					
			<i>relevant day</i> means the date of assent to the amending Act.	14					
	42	Gen	neral						
			The provisions of this Part are subject to any regulations made under clause 1.	16 17					
	43	Constitution of Council							
		(1)	Subject to this Act, on the relevant day:	19					
			(a) a person holding office under former section 9 (3) ceases to hold that office, and	20 21					
			 (b) a person holding office under former section 9 (5) (a) or (b) or (7) is taken to be appointed as a member under new section 9 (1) (b), (g) or (c), respectively, for the balance of the person's term of office, and 	22 23 24 25					
			 (c) a person holding office under former section 9 (6) (a), (b) or (c) is taken to be elected as a member under new section 9 (1) (d), (e) or (f), respectively, for the balance of the person's term of office. 	26 27 28 29					
		(2)	On, or as soon as is reasonably practicable after, the relevant day, the Minister must appoint the balance of the members required to be appointed under new section $9(1)$ (b).	30 31 32					
		(3)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 9 as soon as is reasonably practicable after the relevant day.	33 34 35 36					

(4)	For the purposes of making the by-laws referred to in subclause (3), the Council must be constituted so as to include all of the members required to be appointed under new section 9 (1) (b).								
(5)	The Council is taken to be properly constituted until such time as it is constituted in accordance with new section 9.								
(6)	A ca Cour follo	sual vacancy occurring in the office of a member before the neil is duly constituted under new section 9 is to be filled as ws:	6 7 8						
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	9 10 11						
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	12 13 14						
	(c)	if the vacancy occurs in the office of a member elected under new section $9(1)(d)$ or (e), the Council is to appoint a person qualified to hold that office,	15 16 17						
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	18 19 20 21 22						
	(e)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (g), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	23 24 25 26						
(7)	hold subc	ect to this Act, a member appointed under subclause (6) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	27 28 29 30						
(8)	Subj	ect to this Act, if, on the expiry:	31						
	(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	32 33						
	(b)	in the case of a member appointed under subclause (6), of the term of office of the member's predecessor,	34 35						
	elect not y	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	36 37 38 39						

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	(9)	For the purposes of subclause (1), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.							
	(10)	(10) A person who ceases to hold office under subclause (1) (a):							
		(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8						
		(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10						
44	Maxi	mum incumbency for Council members	11						
	(1)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.							
	(2)	However, clause 1 (3) of Schedule 1 does not affect the operation of clause 43 (1) (b) or (c) or (8) of this Schedule.	15 16						
45	Appl	lication of section 24G	17						
		Section 24G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	18 19 20						
46	Cont	tinuation of Council	21						
		No amendment made by the amending Act affects the continuity of the Council.	22 23						

Schedule 2 Amendment of Macquarie University Act 1989 No 126

(Section 3)

1 2

3

[1]	Sect	ion 3 I	Defini	tions		4		
	Inser	t after	sectio	on 3 (3)	:	5		
		(4)	Note	es inclu	ided in this Act do not form part of this Act.	6		
[2]	Sect	ion 9				7		
	Omit	t the se	ection.	Insert	instead:	8		
	9	Con	stituti	on of C	Council	9		
		(1)	The Council is to consist of:					
			(a)	3 off	icial members, being:	11		
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13		
				(ii)	the Vice-Chancellor, and	14		
				(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19		
			(b)	6 ext	ernal persons appointed by the Minister, and	20		
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	21 22		
			(d)	3 per	rsons:	23		
				(i)	who are members of the academic staff of the University, and	24 25		
				(ii)	who have such qualifications as may be prescribed by the by-laws, and	26 27		
				(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	28 29 30		
			(e)	one j	person:	31		
				(i)	who is a member of the non-academic staff of the University, and	32 33		
				(ii)	who has such qualifications as may be prescribed by the by-laws, and	34 35		

(2)

(3)

(4)

(5)

Amendment of Macquarie University Act 1989 No 126

Schedule 2

	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
(f)	one p	person:	4
	(i)	who is a student of the University but who is not a member of the academic or non-academic staff of the University, and	5 6 7
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	8 9
	(iii)	who is elected by students of the University in the manner prescribed by the by-laws, and	10 11
(g)		or more external persons (being such number as is cribed by the by-laws):	12 13
	(i)	who are graduates of the University, and	14
	(ii)	who have such qualifications as are prescribed by the by-laws, and	15 16
	(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	17 18 19
The purp num Cour	20 21 22 23		
		appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	24 25
Parli	ament	er may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only n is nominated by the Council for appointment.	26 27 28
		an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	29 30
Of th	ne men	bers of the Council:	31
(a)	by re mana	ast 2 must have financial expertise (as demonstrated elevant qualifications and by experience in financial agement at a senior level in the public or private or), and	32 33 34 35
(b)	demo	east one must have commercial expertise (as onstrated by relevant experience at a senior level in the ic or private sector).	36 37 38

Schedule 2 Amendment of Macquarie University Act 1989 No 126

1 2 3 4	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	(6)
5 6	The majority of members of the Council must be external persons.	(7)
7 8	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	(8)
9 10	Schedule 1 has effect in relation to the members and procedure of the Council.	(9)
11 12 13 14	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	(10)
15	unctions of Council	Section 16
16	ection 16 (1A):	Insert after
17 18 19	Without limiting the functions of the Council under subsection (1A), the Council is, in controlling and managing the affairs and concerns of the University:	(1B)
20	(a) to monitor the performance of the Vice-Chancellor, and	
21	(b) to oversee the University's performance, and	
22	(c) to oversee the academic activities of the University, and	
23 24	(d) to approve the University's mission, strategic direction, annual budget and business plan, and	
25 26 27 28 29 30	(e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	
31 32 33	(f) to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	
34 35	(g) to approve significant University commercial activities (within the meaning of section 21A), and	
36 37 38	(h) to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	

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Amendment of Macquarie University Act 1989 No 126

		(i)	infor confe	sure that the University's grievance procedures, and mation concerning any rights of appeal or review erred by or under any Act, are published in a form that adily accessible to the public, and	1 2 3 4
		(j)	funct	gularly review its own performance (in light of its ions and obligations imposed by or under this or any Act), and	5 6 7
		(k)	to ad	opt a statement of its primary responsibilities, and	8
		(1)	of in	ake available for members of the Council a program duction and of development relevant to their role as a member.	9 10 11
[4]	Section 16	, note			12
	Insert at the	e end o	f the se	ection:	13
		makir Coun risk m	ng of ar cil to re	Annual Reports (Statutory Bodies) Act 1984 regulates the inual reports to Parliament by the Council and requires the port on the University's operations (including in relation to ment and insurance arrangements) and a range of financial atters.	14 15 16 17 18
[5]	Section 16	A Con	trolled	d entities	19
	Omit "This	section	n does	not itself confer" from section 16A (4).	20
	Insert inste	ad "No	thing i	in the preceding subsections confers".	21
[6]	Section 16	A (5)			22
	Omit "This	sectio	n does	not affect".	23
	Insert inste	ad "No	thing i	in the preceding subsections affects".	24
[7]	Section 16	A (5A)			25
	Insert after	section	n 16A	(5):	26
	(5A)	The (Counci	il is, as far as is reasonably practicable, to ensure:	27
		(a)	that t	he governing bodies of controlled entities:	28
			(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	29 30
			(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	31 32 33
			(iii)	adopt and evaluate their own governance principles, and	34 35

	Schedule 2	Amendment of Macquarie University Act 1989 No 126
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			 (iv) document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and (b) that a protocol is established regarding reporting by governing bodies of controlled entities to the Council. 	1 2 3 4 5
[8]	Part	4A		6
	Inser	t after l	Part 4:	7
	Par	t 4A	Duties of Council members	8
	21F	Dutie	es of Council members	9
			The members of the Council have the duties set out in Schedule 2A.	10 11
	21G	Remo	oval from office for breach of duty	12
		(1)	The Council may remove a member of the Council from office for breach of a duty set out in Schedule 2A.	13 14
		(2)	The removal from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed from office for breach of duty) was duly given.	15 16 17 18
		(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of members for the time being of the Council.	19 20 21
		(4)	The motion for removal must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	22 23 24 25
		(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	26 27 28 29
		(6)	A member of the Council may not be removed from office by the Council for breach of duty except pursuant to this section.	30 31
[9]	Sect	ion 28	By-laws	32
_	Omit	"(othe	er than the parliamentary members)" from section 28 (1) (b).	33

Amendment of Macquarie University Act 1989 No 126

[10]	Sect	ion 28	(1) (y))	1	
				e secondly occurring.	2	
[11]	Sect	ion 28	(1) (a	a)	3	
	Insert at the end of section 28 (1) (z):					
				, and	5	
			(aa)	the making, publication and inspection of rules.	6	
[12]	Sect	ion 29			7	
	Omit	the se	ction.	Insert instead:	8	
	29	Rule	S		9	
		(1)	or of this 2 matter the n (2), 1	by-laws may empower any authority (including the Council) fficer of the University to make rules (not inconsistent with Act or the by-laws) for or with respect to any or all of the ers for or with respect to which by-laws may be made, except natters referred to in sections 3 (2), 9 (1) (c)–(g) and (8), 10 $14(1)$, $16(1)$ (d) and (e), 23 and 28 (1) (b) and (k) and clauses 0 (c) and (d) and 3 of Schedule 1.	10 11 12 13 14 15 16	
		(2)	A ru	le:	17	
			(a)	has the same force and effect as a by-law, and	18	
			(b)	may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule, and	19 20 21 22	
			(c)	takes effect on the day on which it is published or on such later day as may be specified in the rule, and	23 24	
			(d)	must indicate the authority or officer who made the rule and that it is made under this section.	25 26	
		(3)		e event of an inconsistency between a by-law and a rule, the aw prevails to the extent of the inconsistency.	27 28	
		(4)	matte does	fact that a provision of this Act specifically provides for a er to be the subject of by-laws (without mention of rules) not prevent the matter from being the subject of rules made cordance with this section.	29 30 31 32	

Schedule 2	Amendment of Macquarie University Act 1989 No 12
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[13]	Schedule 1 Provisions relating to members and procedure of the Council				1	
	Omit clauses 1 and 2. Insert instead:					
	1	Tern	n of of	fice	3	
		(1)	Subj follo	ect to this Act, a member of the Council holds office as ws:	4 5	
			(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	6 7	
			(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	8 9 10	
			(c)	in the case of an elected member referred to in section 9 (1) (d), (e) or (f), for such term (not exceeding 3 years) as may be prescribed by the by-laws,	11 12 13	
			(d)	in the case of a member referred to in section 9 (1) (g), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	14 15 16 17 18	
		(2)	The new	need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	19 20	
			(a)	by the Council, when making the by-laws required under this clause, and	21 22	
			(b)	by the Minister and the Council, when appointing members to the Council.	23 24	
		(3)	cons	erson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Council otherwise lives in relation to the person).	25 26 27	
	2	Vaca	ation o	of office	28	
			The mem	office of a member of the Council becomes vacant if the aber:	29 30	
			(a)	dies, or	31	
			(b)	declines to act, or	32	
			(c)	resigns the office by writing under his or her hand addressed:	33 34	
				(i) in the case of a member appointed by the Minister, to the Minister, or	35 36	
				(ii) in the case of a member appointed by the Council, to the Chancellor, or	37 38	

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Amendment of Macquarie University Act 1989 No 126

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estate for their benefit, or	3 4 5 6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	8 9 10 11 12
(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	13 14 15
(h)	is removed from office by the Council pursuant to section 21G, or	16 17
(i)	is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Council for his or her absence, or	18 19 20 21 22
(j)	in the case of an elected member, or a member appointed under section 9 (1) (g), ceases to be qualified for election or appointment, or	23 24 25
(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
(1)	in the case of a member appointed by the Council, is removed from office by the Council.	28 29
Schedule 1, clau	se 3 (2)	30
Omit "(otherwise	than to fill the office of a parliamentary member)".	31

Schedule 2	Amendment of Macquarie University A	ct 1989 No 126
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[15]		edule 2A t after Sche	dule 2:	1 2
	Scł	nedule 2	A Duties of Council members	3
			(Section 21F)	4
	1	Duty to a	ct in best interests of University	5
		An	nember of the Council must carry out his or her functions:	6
		(a)	in good faith in the best interests of the University as a whole, and	7 8
		(b)	for a proper purpose.	9
	2	Duty to e	xercise care and diligence	10
		reas	member of the Council must act honestly and exercise a sonable degree of care and diligence in carrying out his or her ctions.	11 12 13
	3	Duty not	to improperly use position	14
			nember of the Council must not make improper use of his or position:	15 16
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	17 18
		(b)	to cause detriment to the University.	19
	4	Duty not	to improperly use information	20
	-		member of the Council must not make improper use of ormation acquired because of his or her position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	5	Disclosu	re of material interests by Council members	26
		(1) If:		27
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	28 29 30

Amendment of Macquarie University Act 1989 No 126

Schedule 2

	(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	1 2 3
	come	nember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the est at a meeting of the Council.	4 5 6
(2)		sclosure by a member of the Council at a meeting of the neil that the member:	7 8
	(a)	is a member, or is in the employment, of a specified company or other body, or	9 10
	(b)	is a partner, or is in the employment, of a specified person, or	11 12
	(c)	has some other specified interest relating to a specified company or other body or to a specified person,	13 14
	relati may a	ufficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	15 16 17 18
(3)	recor book	culars of any disclosure made under this clause must be ded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the acil.	19 20 21 22 23
(4)	intere	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	24 25 26
	(a)	be present during any deliberation of the Council with respect to the matter, or	27 28
	(b)	take part in any decision of the Council with respect to the matter.	29 30
(5)	unde	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	31 32 33
	(a)	be present during any deliberation of the Council for the purpose of making the determination, or	34 35
	(b)	take part in the making by the Council of the determination.	36 37
(6)		ntravention of this clause does not invalidate any decision of council.	38 39

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	(7)	This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on any question relating to, the person's removal from office by the Council pursuant to section 21G.				
	(8)	This clause applies to a member of a committee of the Council and the committee in the same way as it applies to a member of the Council and the Council.				
	(9)	For the purposes of this clause, a member has a material interest in a matter if a determination of the Council in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.				
	(10)	In th	is clause:	12		
		assoc	ciate of a member means any of the following:	13		
		(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	14 15		
		(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	16 17 18		
		(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	19 20 21		
Sche	edule 3	8 Savir	ngs and transitional provisions	22		
Inser	t befor	e claus	se 1:	23		
1A	Savi	vings or transitional regulations				
	(1)	The savin	Governor may make regulations containing provisions of a negs or transitional nature consequent on the enactment of the wing Acts:	25 26 27		
		Univ	ersity Legislation Amendment Act 2004	28		
	(2)		such provision may, if the regulations so provide, take effect the date of assent to the Act concerned or a later date.	29 30		
	(3)	that i	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:			
		(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	34 35 36		

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Amendment of Macquarie University Act 1989 No 126	
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			(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	1 2 3			
[17]	Schedule 3, clause 12							
	Insert after clause 11:							
	12	12 Provisions consequent on enactment of University Legislation Amendment Act 2004						
		(1)	In th	In this clause:				
			<i>amending Act</i> means the University Legislation Amendment Act 2004.					
				<i>ter section 9</i> means section 9 as in force immediately before abstitution by the amending Act.	11 12			
			<i>new</i> Act.	section 9 means section 9 as substituted by the amending	13 14			
			relev	pant day means the date of assent to the amending Act.	15			
		(2)	Subj	ect to this Act, on the relevant day:	16			
			(a)	a person holding office under former section 9 (2) ceases to hold that office, and	17 18			
			(b)	a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	19 20 21 22			
			(c)	a person holding office under former section 9 (5) (a), (b), (c) or (d) is taken to be elected as a member under new section 9 (1) (d), (e), (f) or (g), respectively, for the balance of the person's term of office.	23 24 25 26			
		(3)	the M	or as soon as is reasonably practicable after, the relevant day, Anister must appoint the balance of the members required to pointed under new section 9 (1) (b).	27 28 29			
		(4)	neces duly	Council is to make all necessary by-laws and take all ssary steps to ensure, as far as possible, that the Council is constituted under new section 9 as soon as is reasonably ticable after the relevant day.	30 31 32 33			
		(5)	(4), t	the purposes of making the by-laws referred to in subclause the Council must be constituted so as to include all of the bers required to be appointed under new section 9 (1) (b).	34 35 36			
		(6)		Council is taken to be properly constituted until such time as constituted in accordance with new section 9.	37 38			

(7)	A casual vacancy occurring in the office of a member before the Council is duly constituted under new section 9 is to be filled as follows:				
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	4 5 6		
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	7 8 9		
	(c)	if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	10 11 12		
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	13 14 15 16 17		
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (g), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	18 19 20 21		
(8)	holds subc	ect to this Act, a member appointed under subclause (7) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	22 23 24 25		
(9)	Subject to this Act, if, on the expiry:				
	(a)	of a member's term of office that is continued under subclause (2) (b) or (c), or	27 28		
	(b)	in the case of a member appointed under subclause (7), of the term of office of the member's predecessor,	29 30		
	elect not y	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	31 32 33 34		
(10)	A person who ceases to hold office under subclause (2) (a):				
	(a)	is not entitled to any remuneration or compensation because of loss of that office, and	36 37		
	(b)	is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	38 39		

Amendment of Macquarie University Act 1989 No 126

(11)	For the purposes of subclause (2), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
(12)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	6 7 8
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	9 10
(14)	Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	11 12 13
(15)	Any by-law in force immediately before the relevant day is taken to have been validly made under this Act (as amended by the amending Act) but only to the extent to which it could validly have been made immediately after that day.	14 15 16 17
(16)	Any rule in force immediately before the relevant day that could validly have been made immediately before that day is taken to have been validly made under this Act as amended by the amending Act.	18 19 20 21
(17)	On and after 1 September 2005, subclause (16) does not validate any rule in force immediately before the relevant day that could not have been validly made after the relevant day.	22 23 24
(18)	No amendment made by the amending Act affects the continuity of the Council.	25 26
(19)	The provisions of this clause are subject to any regulations made under clause 1A.	27 28

Schedule 3	Amendment of Southern Cross University Act 1993 No 69
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Schedule 3 Amendment of Southern Cross University Act 1993 No 69

(Section 3)

1 2

3

[1]	Section 3 Definitions					4
	Insert after section 3 (3):					5
		(4)	Note	es inclu	ded in this Act do not form part of this Act.	6
[2]	Sect	ion 10)			7
	Omit	the se	ection.	Insert	instead:	8
	10	Con	stituti	on of C	Council	9
		(1)	The	Counc	il is to consist of:	10
			(a)	3 off	icial members, being:	11
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
			(b)	pract	ernal persons appointed by the Minister with, as far as icable, at least one person appointed from each of the wing categories:	20 21 22
				(i)	persons experienced in the field of education or the arts,	23 24
				(ii)	persons experienced in technology, industry, commerce or industrial relations,	25 26
				(iii)	persons who are practising, or have practised, a profession,	27 28
				(iv)	persons associated with the north coast region of the State, and	29 30
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	31 32
			(d)	2 per	sons:	33
				(i)	who are members of the academic staff of the University, and	34 35

Amendment of Southern Cross University Act 1993 No 69

		(ii)	who have such qualifications as may be prescribed by the by-laws, and	1 2
		(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	3 4 5
	(e)	one p	person:	6
		(i)	who is a member of the non-academic staff of the University, and	7 8
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	9 10
		(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	11 12 13
	(f)	one p	person:	14
		(i)	who is a student of the University but who is not a member of the academic or non-academic staff of the University, and	15 16 17
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	18 19
		(iii)	who is elected by students of the University in the manner prescribed by the by-laws, and	20 21
	(g)		or more external persons (being such number as is cribed by the by-laws):	22 23
		(i)	who are graduates of the University, and	24
		(ii)	who have such qualifications as are prescribed by the by-laws, and	25 26
		(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	27 28 29
(2)	purp num	oses o ber of	vs may not prescribe a number of members for the f subsection (1) (c) or (g) that when added to the other members to be appointed or elected to the bull exceed 22.	30 31 32 33
(3)			appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	34 35
(4)	Parli	ament	ter may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only n is nominated by the Council for appointment.	36 37 38
			an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	39 40

Schedule 3	Amendment of Southern Cross University Act 1993 No 69
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	(5)	 Of the members of the Council: (a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and 	1 2 3 4 5
		(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	6 7 8
	(6)	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	9 10 11 12
	(7)	The majority of members of the Council must be external persons.	13 14
	(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	15 16
	(9)	Schedule 1 has effect in relation to the members and procedure of the Council.	17 18
	(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	19 20 21 22
[3]	Section 16	Functions of Council	23
	Insert after	section 16 (1A):	24
	(1B)	Without limiting the functions of the Council under subsection (1A), the Council is, in controlling and managing the affairs and concerns of the University:	25 26 27
		(a) to monitor the performance of the Vice-Chancellor, and	28
		(b) to oversee the University's performance, and	29
		(c) to oversee the academic activities of the University, and	30
		(d) to approve the University's mission, strategic direction, annual budget and business plan, and	31 32
		(e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	33 34 35 36 37 38

[4]

[5]

[6]

[7]

Amendment of Southern Cross University Act 1993 No 69

	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	1 2 3
	(g)	to approve significant University commercial activities (within the meaning of section 21A), and	4 5
	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	9 10 11 12
	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
	(k)	to adopt a statement of its primary responsibilities, and	16
	(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
Section 16	note		20
Insert at the	end o	f the section:	21
	makir Coun risk m	. The Annual Reports (Statutory Bodies) Act 1984 regulates the ng of annual reports to Parliament by the Council and requires the cil to report on the University's operations (including in relation to nanagement and insurance arrangements) and a range of financial ther matters.	22 23 24 25 26
Section 16	A Con	trolled entities	27
Omit "This	sectio	n does not itself confer" from section 16A (4).	28
Insert instea	ıd "Nc	othing in the preceding subsections confers".	29
Section 16	A (5)		30
Omit "This	sectio	n does not affect".	31
Insert instea	ıd "Nc	othing in the preceding subsections affects".	32
Section 16	A (5A)		33
Insert after	section	n 16A (5):	34
(5A)	The (a)	Council is, as far as is reasonably practicable, to ensure: that the governing bodies of controlled entities:	35 36

Schedule 3 Amendment of Southern Cross University Act 1993 No 69

			(i) possess the expertise and experience necessary to provide proper stewardship and control, and	1 2
			(ii) comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	3 4 5
			(iii) adopt and evaluate their own governance principles, and	6 7
			 (iv) document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and 	8 9 10
			(b) that a protocol is established regarding reporting by governing bodies of controlled entities to the Council.	11 12
[8]	Part	4A		13
	Inser	t after	Part 4:	14
	Par	t 4A	Duties of Council members	15
	21F	Dutie	es of Council members	16
			The members of the Council have the duties set out in Schedule 2A.	17 18
	21G	Rem	oval from office for breach of duty	19
		(1)	The Council may remove a member of the Council from office for breach of a duty set out in Schedule 2A.	20 21
		(2)	The removal from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed from office for breach of duty) was duly given.	22 23 24 25
		(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of members for the time being of the Council.	26 27 28
		(4)	The motion for removal must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	29 30 31 32
		(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	33 34 35 36

Amendment of Southern Cross University Act 1993 No 69	Schedule 3
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		(6)		ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	1 2
[9]	Sect	ion 29	By-la	ws	3
	Omi	t "(othe	er than	the parliamentary members)" from section 29 (1) (b).	4
[10]	Sect	ion 29	(1) (a	a)	5
				n 29 (1) (z):	6
			(aa)	the making, publication and inspection of rules.	7
[11]	Sect	ion 30			8
	Omi	t the se	ction.	Insert instead:	9
	30	Rule	s		10
		(1)	or of this 1 matter the n (2), 1	by-laws may empower any authority (including the Council) fficer of the University to make rules (not inconsistent with Act or the by-laws) for or with respect to any or all of the ers for or with respect to which by-laws may be made, except natters referred to in sections 3 (2), 10 (1) (c)–(g) and (8), 11 16 (1) (d) and (e), 24 and 29 (1) (b) and (k) and clauses 1 (1) nd (d) and 3 of Schedule 1.	11 12 13 14 15 16 17
		(2)	A ru	le:	18
			(a)	has the same force and effect as a by-law, and	19
			(b)	may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule, and	20 21 22 23
			(c)	takes effect on the day on which it is published or on such later day as may be specified in the rule, and	24 25
			(d)	must indicate the authority or officer who made the rule and that it is made under this section.	26 27
		(3)		e event of an inconsistency between a by-law and a rule, the aw prevails to the extent of the inconsistency.	28 29
		(4)	matte does	fact that a provision of this Act specifically provides for a er to be the subject of by-laws (without mention of rules) not prevent the matter from being the subject of rules made cordance with this section.	30 31 32 33

[12]	Schedule 1 Provisions relating to members and procedure of the Council						
	Omit	claus	ses 1 and 2. Insert instead:	2			
	1	Term of office					
		(1)	Subject to this Act, a member of the Council holds office as follows:	4 5			
			(a) in the case of an official member, while the member holds the office by virtue of which he or she is a member,	6 7			
			(b) in the case of a member appointed under section 10 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	8 9 10			
			 (c) in the case of an elected member referred to in section 10 (1) (d), (e) or (f), for such term (not exceeding 3 years) as may be prescribed by the by-laws, 	11 12 13			
			(d) in the case of a member referred to in section 10 (1) (g), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	14 15 16 17 18			
		(2)	The need to maintain an appropriate balance of experienced and new members on the Council must be taken into account:	19 20			
			(a) by the Council, when making the by-laws required under this clause, and	21 22			
			(b) by the Minister and the Council, when appointing members to the Council.	23 24			
		(3)	A person must not be appointed or elected to serve more than 12 consecutive years of office (unless the Council otherwise resolves in relation to the person).	25 26 27			
	2	Vaca	cation of office	28			
			The office of a member of the Council becomes vacant if the member:	29 30			
			(a) dies, or	31			
			(b) declines to act, or	32			
			(c) resigns the office by writing under his or her hand addressed:	33 34			
			(i) in the case of a member appointed by the Minister, to the Minister, or	35 36			
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	37 38			

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Amendment of Southern Cross University Act 1993 No 69

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds	3 4
	with his or her creditors or makes any assignment of his or	5
	her estate for their benefit, or	6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an	8 9 10
	offence that, if committed in New South Wales, would be an offence so punishable, or	11 12
(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	13 14 15
(h)	is removed from office by the Council pursuant to section 21G, or	16 17
(i)	is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Council for his or her absence, or	18 19 20 21 22
(j)	in the case of an elected member, or a member appointed under section $10(1)(g)$, ceases to be qualified for election or appointment, or	23 24 25
(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
(l)	in the case of a member appointed by the Council, is removed from office by the Council.	28 29
Schedule 1, clau	se 3 (2)	30
Omit "(otherwise	than to fill the office of a parliamentary member)".	31

Schedule 3	Amendment of Southern	Cross University	y Act 1993 No 69
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[14]		edule 2A t after Sched	ule 2:	1 2		
	Scł	nedule 2/	A Duties of Council members	3		
			(Section 21F)	4		
	1	Duty to act	t in best interests of University	5		
		A me	ember of the Council must carry out his or her functions:	6		
		(a)	in good faith in the best interests of the University as a whole, and	7 8		
		(b)	for a proper purpose.	9		
	2	Duty to exc	ercise care and diligence	10		
		reasc	ember of the Council must act honestly and exercise a onable degree of care and diligence in carrying out his or her tions.	11 12 13		
	3	Duty not to	o improperly use position	14		
		A member of the Council must not make improper use of his or her position:				
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	17 18		
		(b)	to cause detriment to the University.	19		
	4	Duty not to	o improperly use information	20		
		A m infor	nember of the Council must not make improper use of mation acquired because of his or her position:	21 22		
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24		
		(b)	to cause detriment to the University.	25		
	5	Disclosure of material interests by Council members				
		(1) If:		27		
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	28 29 30		
		(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	31 32 33		

Amendment of Southern Cross University Act 1993 No 69

Schedule 3

the member must, as soon as possible after the relevant facts have 1 come to the member's knowledge, disclose the nature of the 2 3 interest at a meeting of the Council. 4 A disclosure by a member of the Council at a meeting of the (2)5 Council that the member: 6 is a member, or is in the employment, of a specified (a) 7 company or other body, or 8 is a partner, or is in the employment, of a specified person, (b) 9 or has some other specified interest relating to a specified 10 (c) company or other body or to a specified person, 11 12 is a sufficient disclosure of the nature of the interest in any matter 13 relating to that company or other body or to that person which 14 may arise after the date of the disclosure and which is required to be disclosed under subclause (1). 15 Particulars of any disclosure made under this clause must be 16 (3) recorded by the Council in a book kept for the purpose and that 17 18 book must be open at all reasonable hours for inspection by any 19 person on payment of a reasonable fee determined by the 20 Council. 21 After a member of the Council has disclosed the nature of an (4) 22 interest in any matter, the member must not, unless the Council 23 otherwise determines: 24 be present during any deliberation of the Council with (a) 25 respect to the matter, or 26 take part in any decision of the Council with respect to the (b) 27 matter. 28 (5) For the purpose of the making of a determination by the Council 29 under subclause (4), a member of the Council who has a material 30 interest in a matter to which the disclosure relates must not: 31 be present during any deliberation of the Council for the (a) 32 purpose of making the determination, or take part in the making by the Council of the 33 (b) determination. 34 35 (6) A contravention of this clause does not invalidate any decision of the Council. 36 37 (7)This clause does not prevent a person from taking part in the 38 consideration or discussion of, or from voting on any question 39 relating to, the person's removal from office by the Council 40 pursuant to section 21G.

	(8)	This clause applies to a member of a committee of the Council and the committee in the same way as it applies to a member of the Council and the Council.	1 2 3
	(9)	For the purposes of this clause, a member has a material interest in a matter if a determination of the Council in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.	4 5 6 7
	(10)	In this clause:	8
		associate of a member means any of the following:	9
		(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	10 11
		(b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	12 13 14
		(c) any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	15 16 17
[15]	Schedule	3 Savings and transitional provisions	18
	Omit "of th	his Act." from clause 2 (1). Insert instead:	19
		of this Act and the following Acts:	20
		University Legislation Amendment Act 2004	21
[16]	Schedule	3, clause 2 (2)	22
	Omit "to th	is Act". Insert instead "to the Act concerned".	23
[17]	Schedule	3, Part 8	24
	Insert after	Part 7:	25
	Part 8	Provisions consequent on enactment of	26
		University Legislation Amendment Act	
		2004	28
	32 Defi	nitions	29
		In this Part:	30
		<i>amending Act</i> means the University Legislation Amendment Act 2004.	31 32
		<i>former section 10</i> means section 10 as in force immediately before its substitution by the amending Act.	33 34

Amendment of Southern Cross University Act 1993 No 69	Schedule 3
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		<i>new</i> Act.	section 10 means section 10 as substituted by the amending	1 2
		relev	pant day means the date of assent to the amending Act.	3
33	Gene	eral		4
			provisions of this Part are subject to any regulations made or clause 2.	5 6
34	Cons	stitutio	on of Council	7
	(1)	Subj	ect to this Act, on the relevant day:	8
		(a)	a person holding office under former section 10 (2) ceases to hold that office, and	9 10
		(b)	a person holding office under former section 10 (4) (a) or (b) or (6) is taken to be appointed as a member under new section 10 (1) (g), (b) or (c), respectively, for the balance of the person's term of office, and	11 12 13 14
		(c)	a person holding office under former section 10 (5) (a), (b) or (c) is taken to be elected as a member under new section 10 (1) (d), (e) or (f), respectively, for the balance of the person's term of office.	15 16 17 18
	(2)	nece duly	Council is to make all necessary by-laws and take all ssary steps to ensure, as far as possible, that the Council is constituted under new section 10 as soon as is reasonably ticable after the relevant day.	19 20 21 22
	(3)	(2), 1	the purposes of making the by-laws referred to in subclause the Council must be constituted so as to include all of the abers required to be appointed under new section 10 (1) (b).	23 24 25
	(4)	The of th	Council is taken to be properly constituted until such time as constituted in accordance with new section 10.	26 27
	(5)		sual vacancy occurring in the office of a member before the ncil is duly constituted under new section 10 is to be filled as ws:	28 29 30
		(a)	if the vacancy occurs in the office of a member appointed under new section 10 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	31 32 33
		(b)	if the vacancy occurs in the office of a member appointed under new section 10 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	34 35 36
		(c)	if the vacancy occurs in the office of a member elected under new section 10 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	37 38 39

Schedule 3 Amendment of Southern Cross University Act 1993 No 69

(d) if the vacancy occurs in the office of a member elected 1 under new section 10 (1) (f), the Council is to appoint a 2 3 person qualified to hold that office following consultation 4 with the relevant student body or bodies recognised by the 5 Council. 6 if the vacancy occurs in the office of a member appointed (e) 7 under new section 10 (1) (g), the Council is to appoint a 8 person qualified to hold that office following consultation 9 with the alumni association or body for the University. 10 (6) Subject to this Act, a member appointed under subclause (5) 11 holds office from the time that person is appointed under that 12 subclause until the expiry of the term of that member's 13 predecessor. 14 (7)Subject to this Act, if, on the expiry: of a member's term of office that is continued under 15 (a) 16 subclause (1) (b) or (c), or 17 in the case of a member appointed under subclause (5), of (b) 18 the term of office of the member's predecessor, 19 the by-laws necessary to enable a person to be duly appointed or 20 elected (as the case may be) to that office under new section 10 are not yet in force, the member may continue to hold that office 21 22 until such time as a person is so duly appointed or elected. 23 (8) For the purposes of subclause (1), a member filling a casual 24 vacancy and holding office immediately before the relevant day 25 is taken to hold that office immediately before the relevant day 26 under the provision under which the member's predecessor was 27 elected or appointed. 28 (9) A person who ceases to hold office under subclause (1) (a): 29 (a) is not entitled to any remuneration or compensation 30 because of loss of that office, and is eligible (subject to this Act and if otherwise qualified) to 31 (b) 32 be appointed as a member. 33 Maximum incumbency for Council members 34 (1)Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account 35 36 in applying clause 1 (3) of Schedule 1 in respect of the member. 37 (2)However, clause 1 (3) of Schedule 1 does not affect the operation 38 of clause 34 (1) (b) or (c) or (7) of this Schedule.

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Amendment of Southern Cross University Act 1993 No 69

36	Арр	lication of section 21G	1
		Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	2 3 4
37	Effe	ct of amendments on existing by-laws and rules	5
	(1)	Any by-law in force immediately before the relevant day is taken to have been validly made under this Act (as amended by the amending Act) but only to the extent to which it could validly have been made immediately after that day.	6 7 8 9
	(2)	Any rule in force immediately before the relevant day that could validly have been made immediately before that day is taken to have been validly made under this Act as amended by the amending Act.	10 11 12 13
	(3)	On and after 1 September 2005, subclause (2) does not validate any rule in force immediately before the relevant day that could not have been validly made after the relevant day.	14 15 16
38	Con	tinuation of Council	17
		No amendment made by the amending Act affects the continuity of the Council.	18 19

Schedule 4	Amendment of University of New England Act 1993 No 68
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Schedule 4 Amendment of University of New England Act 1993 No 68

(Section 3)

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3

[1]	Section 3 Definitions			tions	4		
	Inser	t after	sectio	n 3 (4)	:	5	
		(5)	Note	es inclu	ided in this Act do not form part of this Act.	6	
[2]	Secti	ion 9				7	
	Omit	the se	ection.	Insert	instead:	8	
	9	9 Constitution of Council					
		(1)	The	Counc	il is to consist of:	10	
			(a)	3 off	icial members, being:	11	
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13	
				(ii)	the Vice-Chancellor, and	14	
				(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19	
			(b)	cons Mini	ternal persons appointed by the Minister following ultation by the Minister with such persons as the ster considers appropriate, with at least one person each of the following categories:	20 21 22 23	
				(i)	persons experienced in the field of education,	24	
				(ii)	persons experienced in technology, industry, business, human services or industrial relations,	25 26	
				(iii)	persons who are practising, or have practised, a profession,	27 28	
				(iv)	persons having such other qualifications and experience as the Minister thinks appropriate, and	29 30	
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	31 32	
			(d)	2 per	rsons:	33	
				(i)	who are members of the academic staff of the University, and	34 35	

Amendment of University of New England Act 1993 No 68

	(ii)	who have such qualifications as may be prescribed by the by-laws, and	1 2
	(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	3 4 5
(e)	one p	person:	6
	(i)	who is a member of the non-academic staff of the University, and	7 8
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	9 10
	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	11 12 13
(f)	one p	person:	14
	(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	15 16 17
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	18 19
	(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	20 21 22
(g)	one p	person:	23
	(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	24 25 26
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	27 28
	(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	29 30 31
(h)		or more external persons (being such number as is ribed by the by-laws):	32 33
	(i)	who are graduates of the University, and	34
	(ii)	who have such qualifications as are prescribed by the by-laws, and	35 36
	(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	37 38 39

Schedule 4	Amendment of University of New England Act 1993 No 68
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(2)The by-laws may not prescribe a number of members for the 1 purposes of subsection (1) (c) or (h) that when added to the 2 3 number of other members to be appointed or elected to the 4 Council would exceed 22. 5 A person appointed under subsection (1) (h) is appointed in (3) addition to any member appointed under subsection (1) (c). 6 7 (4) The Minister may appoint a person who is a member of the 8 Parliament of New South Wales under subsection (1) (b) but only 9 if the person is nominated by the Council for appointment. 10 No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b). 11 12 (5)Of the members of the Council: 13 (a) at least 2 must have financial expertise (as demonstrated 14 by relevant qualifications and by experience in financial 15 management at a senior level in the public or private 16 sector), and 17 at least one must have commercial expertise (as (b) 18 demonstrated by relevant experience at a senior level in the 19 public or private sector). 20 (6) All appointed members of the Council must have expertise and 21 experience relevant to the functions exercisable by the Council 22 and an appreciation of the object, values, functions and activities 23 of the University. (7) 24 The majority of members of the Council must be external 25 persons. 26 (8) The by-laws are to prescribe the procedures for the nomination of 27 persons for appointment as members of the Council. 28 (9) Schedule 1 has effect in relation to the members and procedure of 29 the Council. 30 (10)A reference in this section to external persons is a reference to 31 persons who are not members of the academic or non-academic 32 staff of the University or undergraduate or postgraduate students 33 of the University.

Amendment of University of New England Act 1993 No 68

[3]	Section 16	Func	tions of Council	1	
	Insert after section 16 (1A):				
	(1B)	(1A)	out limiting the functions of the Council under subsection , the Council is, in controlling and managing the affairs and erns of the University:	3 4 5	
		(a)	to monitor the performance of the Vice-Chancellor, and	6	
		(b)	to oversee the University's performance, and	7	
		(c)	to oversee the academic activities of the University, and	8	
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	9 10	
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	11 12 13 14 15 16	
		(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	17 18 19	
		(g)	to approve significant University commercial activities (within the meaning of section 21A), and	20 21	
		(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	22 23 24	
		(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	25 26 27 28	
		(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	29 30 31	
		(k)	to adopt a statement of its primary responsibilities, and	32	
		(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	33 34 35	

Schedule 4 Amendment of University of New England Act 1993 No 68

[4]	Section 16	, note		1		
	Insert at the	making of an Council to re	Annual Reports (Statutory Bodies) Act 1984 regulates the nnual reports to Parliament by the Council and requires the eport on the University's operations (including in relation to ment and insurance arrangements) and a range of financial	2 3 4 5 6 7		
[5]	Section 16	A Controlle	d entities	8		
	Omit "This	section does	s not itself confer" from section 16A (4).	9		
	Insert inste	ad "Nothing	in the preceding subsections confers".	10		
[6]	Section 16	A (5)		11		
	Omit "This section does not affect".					
	Insert inste	ad "Nothing	in the preceding subsections affects".	13		
[7]	Section 16	A (5A)		14		
	Insert after	section 16A	(5):	15		
	(5A)	The Counc	il is, as far as is reasonably practicable, to ensure:	16		
		(a) that	the governing bodies of controlled entities:	17		
		(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	18 19		
		(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	20 21 22		
		(iii)	adopt and evaluate their own governance principles, and	23 24		
		(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	25 26 27		
			a protocol is established regarding reporting by erning bodies of controlled entities to the Council.	28 29		

Amendment of University of New England Act 1993 No 68

[8]	Part 4	4 A		1
	Insert	after	Part 4:	2
	Par	t 4A	Duties of Council members	3
	21F	Dutie	es of Council members	
			The members of the Council have the duties set out in Schedule 2A.	5 6
	21G	Remo	oval from office for breach of duty	7
		(1)	The Council may remove a member of the Council from office for breach of a duty set out in Schedule 2A.	8 9
		(2)	The removal from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed from office for breach of duty) was duly given.	10 11 12 13
		(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of members for the time being of the Council.	14 15 16
		(4)	The motion for removal must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	17 18 19 20
		(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	21 22 23 24
		(6)	A member of the Council may not be removed from office by the Council for breach of duty except pursuant to this section.	25 26
[9]	Secti	on 28	By-laws	27
	Omit	"(othe	er than the parliamentary members)" from section 28 (1) (b).	28
[10]	Secti	on 29	Rules	29
			, 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and) and (e)" from section 29 (1).	30 31
	Insert instead "9 (1) (c)–(h) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (1) (c) and (d)".			

Schedule 4	Amendment of University of New England Act 1993 No 68
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[11]	Sche	dule 1	1 Provisions relating to members and procedure of the Council	1
	Omit	claus	ses 1 and 2. Insert instead:	2
	1	Tern	m of office	3
		(1)	Subject to this Act, a member of the Council holds office as follows:	4 5
			(a) in the case of an official member, while the member holds the office by virtue of which he or she is a member,	6 7
			(b) in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	8 9 10
			 (c) in the case of an elected member referred to in section 9 (1) (d), (e), (f) or (g), for such term (not exceeding 3 years) as may be prescribed by the by-laws, 	11 12 13
			(d) in the case of a member referred to in section 9 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	14 15 16 17 18
		(2)	The need to maintain an appropriate balance of experienced and new members on the Council must be taken into account:	19 20
			(a) by the Council, when making the by-laws required under this clause, and	21 22
			(b) by the Minister and the Council, when appointing members to the Council.	23 24
		(3)	A person must not be appointed or elected to serve more than 12 consecutive years of office (unless the Council otherwise resolves in relation to the person).	25 26 27
	2	Vaca	ation of office	28
			The office of a member of the Council becomes vacant if the member:	29 30
			(a) dies, or	31
			(b) declines to act, or	32
			(c) resigns the office by writing under his or her hand addressed:	33 34
			(i) in the case of a member appointed by the Minister, to the Minister, or	35 36
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	37 38

[12]

Amendment of University of New England Act 1993 No 68

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds	3
	with his or her creditors or makes any assignment of his or	5
	her estate for their benefit, or	6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is	8
	punishable by imprisonment for 12 months or more or is	9
	convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be	10 11
	an offence so punishable, or	12
(g)	is, or becomes, disqualified from managing a corporation	13
	under Part 2D.6 of the Corporations Act 2001 of the	14
	Commonwealth, or	15
(h)	is removed from office by the Council pursuant to section	16
	21G, or	17
(i)	is absent from 3 consecutive meetings of the Council of	18 19
	which reasonable notice has been given to the member personally or in the ordinary course of post and is not,	20
	within 6 weeks after the last of those meetings, excused by	21
	the Council for his or her absence, or	22
(j)	in the case of an elected member, or a member appointed	23
	under section 9 (1) (h), ceases to be qualified for election	24
	or appointment, or	25
(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
(1)	in the case of a member appointed by the Council, is	28
	removed from office by the Council.	29
Schedule 1, clau	se 3 (2)	30
Omit "(otherwise	than to fill the office of a parliamentary member)".	31

Schedule 4	Amendment of Un	niversity of New	England Act	1993 No 68
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[13]		edule 2A t after Schec	dule 2:	1 2
	Scł	nedule 2	A Duties of Council members	3
			(Section 21F)	4
	1	Duty to ac	t in best interests of University	5
		A m	ember of the Council must carry out his or her functions:	6
		(a)	in good faith in the best interests of the University as a whole, and	7 8
		(b)	for a proper purpose.	9
	2	Duty to ex	cercise care and diligence	10
		reas	nember of the Council must act honestly and exercise a onable degree of care and diligence in carrying out his or her ctions.	11 12 13
	3	Duty not t	o improperly use position	14
			nember of the Council must not make improper use of his or position:	15 16
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	17 18
		(b)	to cause detriment to the University.	19
	4	Duty not t	o improperly use information	20
			nember of the Council must not make improper use of rmation acquired because of his or her position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	5	Disclosur	e of material interests by Council members	26
		(1) If:		27
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	28 29 30

Amendment of University of New England Act 1993 No 68

	(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	1 2 3
	come	tember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the est at a meeting of the Council.	4 5 6
(2)		sclosure by a member of the Council at a meeting of the ucil that the member:	7 8
	(a)	is a member, or is in the employment, of a specified company or other body, or	9 10
	(b)	is a partner, or is in the employment, of a specified person, or	11 12
	(c)	has some other specified interest relating to a specified company or other body or to a specified person,	13 14
	relati may a	ufficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	15 16 17 18
(3)	recor book	culars of any disclosure made under this clause must be ded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the icil.	19 20 21 22 23
(4)	intere	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	24 25 26
	(a)	be present during any deliberation of the Council with respect to the matter, or	27 28
	(b)	take part in any decision of the Council with respect to the matter.	29 30
(5)	under	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	31 32 33
	(a)	be present during any deliberation of the Council for the purpose of making the determination, or	34 35
	(b)	take part in the making by the Council of the determination.	36 37
(6)		ntravention of this clause does not invalidate any decision of ouncil.	38 39

Schedule 4	Amendment of University of New England Act 1993 No 68
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	(7)	cons relati	clause does not prevent a person from taking part in the ideration or discussion of, or from voting on any question ing to, the person's removal from office by the Council uant to section 21G.	1 2 3 4
	(8)	and t	clause applies to a member of a committee of the Council the committee in the same way as it applies to a member of Council and the Council.	5 6 7
	(9)	in a resul	he purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may t in a detriment being suffered by or a benefit accruing to the ber or an associate of the member.	8 9 10 11
	(10)	In th	is clause:	12
		asso	ciate of a member means any of the following:	13
		(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	14 15
		(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	16 17 18
		(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	19 20 21
[14]	Schedule 3	8 Savi	ngs and transitional provisions	22
	Omit "of th	is Act	" from clause 2 (1). Insert instead:	23
		of th	is Act and the following Acts:	24
		Univ	versity Legislation Amendment Act 2004	25
[15]	Schedule 3	8, clau	ise 2 (2)	26
	Omit "to th	is Acť	". Insert instead "to the Act concerned".	27

Amendment of University of New England Act 1993 No 68

[16]			3, Part 8 Part 7:	1 2
	Par	rt 8	Provisions consequent on enactment of University Legislation Amendment Act 2004	3 4 5
	37	Defi	nitions	6
			In this Part: <i>amending Act</i> means the <i>University Legislation Amendment Act</i> 2004.	7 8 9
			<i>former section 9</i> means section 9 as in force immediately before its substitution by the amending Act.	10 11
			<i>new section 9</i> means section 9 as substituted by the amending Act.	12 13
			<i>relevant day</i> means the date of assent to the amending Act.	14
	38	Gen	eral	15
			The provisions of this Part are subject to any regulations made under clause 2.	16 17
	39	Con	stitution of Council	18
		(1)	Subject to this Act, on the relevant day:	19
			(a) a person holding office under former section 9 (2) ceases to hold that office, and	20 21
			 (b) a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and 	22 23 24 25
			 (c) a person holding office under former section 9 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office. 	26 27 28 29
		(2)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 9 as soon as is reasonably practicable after the relevant day.	30 31 32 33
		(3)	For the purposes of making the by-laws referred to in subclause (2), the Council must be constituted so as to include all of the members required to be appointed under new section 9 (1) (b).	34 35 36

- (4) The Council is taken to be properly constituted until such time as it is constituted in accordance with new section 9.
- (5) A casual vacancy occurring in the office of a member before the Council is duly constituted under new section 9 is to be filled as follows:
 - (a) if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,

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- (b) if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,
- (c) if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,
- (d) if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,
- (e) if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.
- (6) Subject to this Act, a member appointed under subclause (5) holds office from the time that person is appointed under that subclause until the expiry of the term of that member's predecessor.
- (7) Subject to this Act, if, on the expiry:
 - (a) of a member's term of office that is continued under subclause (1) (b) or (c), or
 - (b) in the case of a member appointed under subclause (5), of the term of office of the member's predecessor,

the by-laws necessary to enable a person to be duly appointed or elected (as the case may be) to that office under new section 9 are not yet in force, the member may continue to hold that office until such time as a person is so duly appointed or elected.

(8) For the purposes of subclause (1), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.

Amendment of University	of New England Act 1993 No 68	Schedule 4
Amenument of Oniversit		

	(9)	A person who ceases to hold office under subclause (1) (a):	1
		(a) is not entitled to any remuneration or compensation because of loss of that office, and	2
		(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	4 5
40	Max	imum incumbency for Council members	6
	(1)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	7 8 9
	(2)	However, clause 1 (3) of Schedule 1 does not affect the operation of clause 39 (1) (b) or (c) or (7) of this Schedule.	10 11
41	Арр	lication of section 21G	12
		Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	13 14 15
42	Con	tinuation of Council	16
		No amendment made by the amending Act affects the continuity of the Council.	17 18

Schedule 5 Ame	endment of University of New South Wales Act	1989 No 125
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Schedule 5 Amendment of University of New South Wales Act 1989 No 125

(Section 3)

1 2

3

Sect	tion 3 l	Definition	IS	4
Inser	rt after	section 3	(3):	5
	(4)	Notes in	ncluded in this Act do not form part of this Act.	6
Sect	tion 9			7
Omi	t the se	ection. Ins	ert instead:	8
9	Con	stitution	of Council	9
	(1)	The Cou	uncil is to consist of:	10
		(a) 3	official members, being:	11
		((i) the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
		(i	ii) the Vice-Chancellor, and	14
		(ii	ii) the person for the time being holding the office of President of the Academic Board (if that person is not the Vice-Chancellor) or of Deputy President of the Academic Board (if the President is the Vice-Chancellor), and	15 16 17 18 19
		(b) 6	external persons appointed by the Minister, and	20
		p	ne or more external persons (being such number as is rescribed by the by-laws) appointed by the Council, at east one of whom is a graduate of the University, and	21 22 23
		(d) 4	persons:	24
		((i) who are members of the academic staff of the University, and	25 26
		(i	ii) who have such qualifications as may be prescribed by the by-laws, and	27 28
		(ii	ii) who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	29 30 31
		(e) of	ne person:	32
		((i) who is a member of the non-academic staff of the University, and	33 34
		(i	ii) who has such qualifications as may be prescribed by the by-laws, and	35 36

[1]

[2]

Amendment of University	y of New South Wales Act 1989 No 125
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		(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
	(f)	one p	person:	4
	. ,	(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	5 6 7
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	8 9
		(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	10 11 12
	(g)	one p	person:	13
		(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	14 15 16
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	17 18
		(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	19 20 21
	(h)	4 ext	ernal persons:	22
		(i)	who are graduates of the University, and	23
		(ii)	who have such qualifications as are prescribed by the by-laws, and	24 25
		(iii)	who are elected by graduates of the University in the manner prescribed by the by-laws.	26 27
(2)	purp othe	oses of	As may not prescribe a number of members for the Esubsection (1) (c) that when added to the number of bers to be appointed or elected to the Council would	28 29 30 31
(3)	Parli	iament	er may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only n is nominated by the Council for appointment.	32 33 34
			an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	35 36

	(4)	Of the members of the Council:	1
		(a) at least 2 must have financial expertise (as demonstrated	2
		by relevant qualifications and by experience in financial management at a senior level in the public or private	3
		sector), and	5
		(b) at least one must have commercial expertise (as	6
		demonstrated by relevant experience at a senior level in the public or private sector).	7 8
	(5)	All appointed members of the Council must have expertise and	9 10
		experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities	11
		of the University.	12
	(6)	The majority of members of the Council must be external persons.	13 14
	(7)		15
	(7)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	16
	(8)	Schedule 1 has effect in relation to the members and procedure of	17
		the Council.	18
	(9)	A reference in this section to external persons is a reference to	19
		persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students	20 21
		of the University.	22
[3]	Section 15	Functions of Council	23
	Insert after	section 15 (1A):	24
	(1B)	Without limiting the functions of the Council under subsection	25
		(1A), the Council is, in controlling and managing the affairs and concerns of the University:	26 27
		(a) to monitor the performance of the Vice-Chancellor, and	28
		(b) to oversee the University's performance, and	29
		(c) to oversee the academic activities of the University, and	30
		(d) to approve the University's mission, strategic direction, annual budget and business plan, and	31 32
		(e) to oversee risk management and risk assessment across the	33
		University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in	34 35
		which the University has an interest but which it does not	36
		control or with which it has entered into a joint venture),	37
		and	38

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[6]

Amendment of University of New South Wales Act 1989 No 125

(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 15A), and	1 2 3
(g)	to approve significant University commercial activities (within the meaning of section 20A), and	4 5
(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	9 10 11 12
(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
(k)	to adopt a statement of its primary responsibilities, and	16
(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
Section 15, note		20
Insert at the end of	f the section:	21
makin Couno risk m	The Annual Reports (Statutory Bodies) Act 1984 regulates the ig of annual reports to Parliament by the Council and requires the cil to report on the University's operations (including in relation to anagement and insurance arrangements) and a range of financial ther matters.	22 23 24 25 26
Section 15A Con	trolled entities	27
Omit "This section	n does not itself confer" from section 15A (4).	28
Insert instead "No	thing in the preceding subsections confers".	29
Section 15A (5)		30
Omit "This section	n does not affect".	31
Insert instead "No	thing in the preceding subsections affects".	32

Schedule 5 Amendment of University of New South Wales Act 1989 No 125

[7]	Sect	ion 15	A (5A))		1
	Inser	rt after s	sectio	n 15A ((5):	2
		(5A)	The	Counci	I is, as far as is reasonably practicable, to ensure:	3
			(a)	that t	he governing bodies of controlled entities:	4
				(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	5 6
				(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	7 8 9
				(iii)	adopt and evaluate their own governance principles, and	10 11
				(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	12 13 14
			(b)		a protocol is established regarding reporting by rning bodies of controlled entities to the Council.	15 16
[8]	Part	4A				17
	Inser	rt after]	Part 4	:		18
	Par	rt 4A	Dut	ties o	of Council members	19
	20F	Dutie	s of C	Counci	l members	20
			The 2A.	membe	ers of the Council have the duties set out in Schedule	21 22
	20G	Remo	oval f	rom of	fice for breach of duty	23
		(1)			il may remove a member of the Council from office of a duty set out in Schedule 2A.	24 25
		(2)	Cour mem	ncil of	I from office may be effected only at a meeting of the which notice (including notice of the motion that the ncerned be removed from office for breach of duty) ven.	26 27 28 29
		(3)	remo	oval is s	al from office may be effected only if the motion for supported by at least a two-thirds majority of the total members for the time being of the Council.	30 31 32
		(4)	unles oppo	ss the	for removal must not be put to the vote of the meeting member concerned has been given a reasonable to reply to the motion at the meeting, either orally or	33 34 35 36

Amendment of University of New South Wales Act 1989 No 125 Schedule 5

	(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	1 2 3 4
	(6)	A member of the Council may not be removed from office by the Council for breach of duty except pursuant to this section.	5 6
[9]	Section 27	By-laws	7
	Omit "(othe	er than the parliamentary members)" from section 27 (1) (b).	8
[10]	Section 28	Rules	9
		, 10 (2), 15 (1) (d) and (e), 22 and 27 (1) (b) and (k) and clauses 1 from section 28 (1).	10 11
		ad "9 (1) (c)–(h) and (7), 10 (2), 15 (1) (d) and (e), 22 and 27 (1) and clauses 1 (1) (c) and (d)".	12 13
[11]	Schedule 1	Provisions relating to members and procedure of the Council	14
	Omit clause	es 1 and 2. Insert instead:	15
	1 Term	of office	16
	(1)	Subject to this Act, a member of the Council holds office as follows:	17 18
		(a) in the case of an official member, while the member holds the office by virtue of which he or she is a member,	19 20
		(b) in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	21 22 23
		 (c) in the case of an elected member referred to in section 9 (1) (d), (e), (f) or (g), for such term (not exceeding 2 years) as may be prescribed by the by-laws, 	24 25 26
		 (d) in the case of an elected member referred to in section 9 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws. 	27 28 29
	(2)	The need to maintain an appropriate balance of experienced and new members on the Council must be taken into account:	30 31
		(a) by the Council, when making the by-laws required under this clause, and	32 33
		(b) by the Minister and the Council, when appointing members to the Council.	34 35

Schedule 5 Amendment of University of New South Wales Act 1989 No 125

	(3)		rson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Council otherwise	1 2
			ves in relation to the person).	3
2	Vaca	tion o	f office	4
		The mem	office of a member of the Council becomes vacant if the ber:	5 6
		(a)	dies, or	7
		(b)	declines to act, or	8
		(c)	resigns the office by writing under his or her hand addressed:	9 10
			(i) in the case of a member appointed by the Minister, to the Minister, or	11 12
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	13 14
			(iii) in the case of an elected member, to the Vice-Chancellor, or	15 16
		(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estate for their benefit, or	17 18 19 20
		(e)	becomes a mentally incapacitated person, or	21
		(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	22 23 24 25 26
		(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	27 28 29
		(h)	is removed from office by the Council pursuant to section 20G, or	30 31
		(i)	is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Council for his or her absence, or	32 33 34 35 36
		(j)	in the case of an elected member, ceases to be qualified for election, or	37 38

Amendment of Univers	y of New South Wales Act 1989 No 125	Schedule 5
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			n the case of a member appointed by the Minister, is emoved from office by the Minister, or
		(l) ii	n the case of a member appointed by the Council, is emoved from office by the Council.
[12]	Sch	edule 1, clause	3 (2)
	Omi	"(otherwise the	an to fill the office of a parliamentary member)".
[13]		edule 2A	
	Inse	t after Schedule	2:
	Scl	nedule 2A	Duties of Council members
			(Section 20F)
	1	Duty to act in	best interests of University
		A mem	ber of the Council must carry out his or her functions:
			n good faith in the best interests of the University as a vhole, and
		(b) f	or a proper purpose.
	2	Duty to exerc	ise care and diligence
			able degree of care and diligence in carrying out his or her ns.
	3	Duty not to ir	nproperly use position
		A mem her pos	ber of the Council must not make improper use of his or ition:
			b gain, directly or indirectly, an advantage for the member or another person, or
		(b) te	o cause detriment to the University.
	4	Duty not to ir	nproperly use information
			ber of the Council must not make improper use of ation acquired because of his or her position:
			b gain, directly or indirectly, an advantage for the member or another person, or
		(b) to	o cause detriment to the University.

Schedule 5 Amendment of University of New South Wales Act 1989 No 125

5	Disc	closure of material interests by Council members	1
	(1)	If:	2
		(a) a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	3 4 5
		(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	6 7 8
		the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.	9 10 11
	(2)	A disclosure by a member of the Council at a meeting of the Council that the member:	12 13
		(a) is a member, or is in the employment, of a specified company or other body, or	14 15
		(b) is a partner, or is in the employment, of a specified person, or	16 17
		(c) has some other specified interest relating to a specified company or other body or to a specified person,	18 19
		is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).	20 21 22 23
	(3)	Particulars of any disclosure made under this clause must be recorded by the Council in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of a reasonable fee determined by the Council.	24 25 26 27 28
	(4)	After a member of the Council has disclosed the nature of an interest in any matter, the member must not, unless the Council otherwise determines:	29 30 31
		(a) be present during any deliberation of the Council with respect to the matter, or	32 33
		(b) take part in any decision of the Council with respect to the matter.	34 35
	(5)	For the purpose of the making of a determination by the Council under subclause (4), a member of the Council who has a material interest in a matter to which the disclosure relates must not:	36 37 38
		(a) be present during any deliberation of the Council for the purpose of making the determination, or	39 40

[14]

		(b)	take part in the making by the Council of the determination.	1 2		
	(6)	A cor the C	3 4			
	(7)	This consid relatin pursu	5 6 7 8			
	(8)	and th	clause applies to a member of a committee of the Council he committee in the same way as it applies to a member of ouncil and the Council.	9 10 11		
	(9)	in a r result	the purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may in a detriment being suffered by or a benefit accruing to the ber or an associate of the member.	12 13 14 15		
	(10)	In thi	s clause:	16		
	<i>associate</i> of a member means any of the following:			17		
		(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,				
		(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	20 21 22		
		(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	23 24 25		
Sche	dule 3	Savin	ngs and transitional provisions	26		
Insert	before	e claus	e 1:	27		
1A	Savin	igs or	transitional regulations	28		
	(1)	savin	Governor may make regulations containing provisions of a gs or transitional nature consequent on the enactment of the wing Acts:	29 30 31		
		Unive	ersity Legislation Amendment Act 2004	32		
	(2)		such provision may, if the regulations so provide, take effect the date of assent to the Act concerned or a later date.	33 34		

		(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	1 2 3
			(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	4 5 6
			(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	7 8 9
[15]	Sche	edule :	3, clause 12	10
	Inser	t after	clause 11:	11
	12		visions consequent on enactment of University Legislation endment Act 2004	12 13
		(1)	In this clause:	14
			<i>amending Act</i> means the University Legislation Amendment Act 2004.	15 16
			<i>former section 9</i> means section 9 as in force immediately before its substitution by the amending Act.	17 18
			<i>new section 9</i> means section 9 as substituted by the amending Act.	19 20
			relevant day means the date of assent to the amending Act.	21
		(2)	Subject to this Act, on the relevant day:	22
			(a) a person holding office under former section 9 (2) ceases to hold that office, and	23 24
			 (b) a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and 	25 26 27 28
			 (c) a person holding office under former section 9 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office. 	29 30 31 32
		(3)	On, or as soon as is reasonably practicable after, the relevant day, the Minister must appoint the balance of the members required to be appointed under new section 9 (1) (b).	33 34 35
		(4)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 9 as soon as is reasonably practicable after the relevant day.	36 37 38 39

Amendment of University of New South Wales Act 1989 No 125 Schedule 5

(5)	For th (4), th memb	1 2 3	
(6)		Council is taken to be properly constituted until such time as onstituted in accordance with new section 9.	4 5
(7)	A cas Coun follov	6 7 8	
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	9 10 11
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	12 13 14
	(c)	if the vacancy occurs in the office of a member elected under new section $9(1)(d)$ or (e), the Council is to appoint a person qualified to hold that office,	15 16 17
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	18 19 20 21 22
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	23 24 25 26
(8)	holds subcla	ct to this Act, a member appointed under subclause (7) office from the time that person is appointed under that ause until the expiry of the term of that member's cessor.	27 28 29 30
(9)	Subje	ct to this Act, if, on the expiry:	31
	(a)	of a member's term of office that is continued under subclause (2) (b) or (c), or	32 33
	(b)	in the case of a member appointed under subclause (7), of the term of office of the member's predecessor,	34 35
	electe not ye	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	36 37 38 39

Schedule 5 Amendment of University of New South Wales Act 1989 No 125

(10)	For the purposes of subclause (2), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
(11)	A person who ceases to hold office under subclause (2) (a):	6
	(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8
	(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10
(12)	Consecutive years of office served by a member immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	11 12 13
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	14 15
(14)	Section 20G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	16 17 18
(15)	No amendment made by the amending Act affects the continuity of the Council.	19 20
(16)	The provisions of this clause are subject to any regulations made under clause 1A.	21 22

Amendment of University of Newcastle Act 1989 No 68

Schedule 6				ndment of University of Newcastle 989 No 68	1 2	
					(Section 3)	3
[1]	Sect	ion 3 l	Defini	tions		4
	Inser	t after	sectio	on 3 (3)		5
		(4)	Note	es inclu	ded in this Act do not form part of this Act.	6
[2]	Sect	ion 9				7
	Omit	the se	ection.	Insert	instead:	8
	9	Con	stituti	on of C	Council	9
		(1)	The	Counc	il is to consist of:	10
			(a)	3 off	icial members, being:	11
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy	15 16 17
					presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor), and	18 19
			(b)		ternal persons appointed by the Minister from, as far acticable, the following categories:	20 21
				(i)	persons experienced in the field of education or the arts,	22 23
				(ii)	persons experienced in technology, industry, commerce or industrial relations,	24 25
				(iii)	persons who are practising, or have practised, a profession, and	26 27
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	28 29
			(d)	2 per	rsons:	30
				(i)	who are members of the academic staff of the University, and	31 32
				(ii)	who have such qualifications as may be prescribed by the by-laws, and	33 34

Schedule 6 Amendment of University of Newcastle Act 1989 No 68

		(iii)	who are elected by members of the academic staff of	1
			the University in the manner prescribed by the by-laws, and	2 3
	(e)	one p	person:	4
		(i)	who is a member of the non-academic staff of the University, and	5 6
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	7 8
		(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	9 10 11
	(f)	one p	person:	12
		(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	13 14 15
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	16 17
		(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	18 19 20
	(g)	one p	person:	21
		(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	22 23 24
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	25 26
		(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	27 28 29
	(h)		or more external persons (being such number as is cribed by the by-laws):	30 31
		(i)	who are members of Convocation, and	32
		(ii)	who have such qualifications as are prescribed by the by-laws, and	33 34
		(iii)	who are (as prescribed by the by-laws) elected by members of Convocation in the manner prescribed by the by-laws or appointed by the Council.	35 36 37
(2)	purp num	oses o ber of	vs may not prescribe a number of members for the of subsection (1) (c) or (h) that when added to the other members to be appointed or elected to the build exceed 22.	38 39 40 41

[3]

Amendment of University of Newcastle Act 1989 No 68

(3)	A person appointed under subsection (1) (h) is appointed in addition to any member appointed under subsection (1) (c).	1 2
(4)	The Minister may appoint a person who is a member of the Parliament of New South Wales under subsection (1) (b) but only if the person is nominated by the Council for appointment.	3 4 5
	No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b).	6 7
(5)	Of the members of the Council:	8
	(a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	9 10 11 12
	(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	13 14 15
(6)	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	16 17 18 19
(7)	The majority of members of the Council must be external persons.	20 21
(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	22 23
(9)	Schedule 1 has effect in relation to the members and procedure of the Council.	24 25
(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	26 27 28 29
Section 16	Functions of Council	30
Insert after	section 16 (1A):	31
(1B)	Without limiting the functions of the Council under subsection (1A), the Council is, in controlling and managing the affairs and concerns of the University:	32 33 34
	(a) to monitor the performance of the Vice-Chancellor, and	35

- (b) to oversee the University's performance, and
- (c) to oversee the academic activities of the University, and

Schedule 6 Amendment of University of Newcastle Act 1989 No 68

(d)	to approve the University's mission,	strategic	direction,
	annual budget and business plan, and	-	

(e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and

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- (f) to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and
- (g) to approve significant University commercial activities (within the meaning of section 21A), and
- (h) to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and
- (i) to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and
- (j) to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and
- (k) to adopt a statement of its primary responsibilities, and
- (l) to make available for members of the Council a program of induction and of development relevant to their role as such a member.

[4] Section 16, note

Insert at the end of the section:

Note. The *Annual Reports (Statutory Bodies) Act 1984* regulates the making of annual reports to Parliament by the Council and requires the Council to report on the University's operations (including in relation to risk management and insurance arrangements) and a range of financial and other matters.

[5] Section 16A Controlled entities

Omit "This section does not itself confer" from section 16A (4).36Insert instead "Nothing in the preceding subsections confers".37

[6]	Sect	ion 16/	A (5)			1
	Omi	t "This	section	does not aff	fect".	2
	Inser	t instea	id "Not	ing in the p	preceding subsections affects".	3
[7]	Sect	ion 16/	A (5A)			4
	Inser	t after s	section	6A (5):		5
		(5A)	The C	ouncil is, as	far as is reasonably practicable, to ensure:	6
			(a)	hat the gov	erning bodies of controlled entities:	7
					ess the expertise and experience necessary to de proper stewardship and control, and	8 9
				who	orise, where possible, at least some members are not members of the Council or members of or students, of the University, and	10 11 12
				iii) adopt and	and evaluate their own governance principles,	13 14
				busin	ment, and keep updated, a corporate or ess strategy containing achievable and urable performance targets, and	15 16 17
			(b)		tocol is established regarding reporting by bodies of controlled entities to the Council.	18 19
[8]	Part	4A				20
	Inser	t after]	Part 4:			21
	Par	t 4A	Duti	es of Co	ouncil members	22
	21F	Dutie	s of Co	uncil mem	bers	23
			The m 2A.	embers of t	he Council have the duties set out in Schedule	24 25
	21G	Remo	oval fro	m office fo	r breach of duty	26
		(1)	The C for bre	ouncil may ach of a dut	remove a member of the Council from office ty set out in Schedule 2A.	27 28
		(2)	Cound memb	l of which	office may be effected only at a meeting of the notice (including notice of the motion that the d be removed from office for breach of duty)	29 30 31 32

Schedule 6 Amendment of University of Newcastle Act 1989 No 68

		(3)	removal is su	from office may be effected only if the motion for pported by at least a two-thirds majority of the total embers for the time being of the Council.	1 2 3
		(4)	unless the n	or removal must not be put to the vote of the meeting nember concerned has been given a reasonable o reply to the motion at the meeting, either orally or	4 5 6 7
		(5)	attend the m	er to whom the motion for removal refers does not neeting, a reasonable opportunity to reply to the ten to have been given if notice of the meeting has yen.	8 9 10 11
		(6)		the Council may not be removed from office by the breach of duty except pursuant to this section.	12 13
[9]	Sect	ion 28	By-laws		14
	Omi	t "(othe	than the parl	iamentary members)" from section 28 (1) (b).	15
[10]	Sect	ion 29	Rules		16
), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and n section 29 (1).	17 18
				h) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and uses 1 (1) (c) and (d)".	19 20
[11]	Sche	edule 1	Provisions re	elating to members and procedure of the Council	21
	Omi	t clause	1 and 2. Inse	ert instead:	22
	1	Term	of office		23
		(1)	Subject to th follows:	is Act, a member of the Council holds office as	24 25
				case of an official member, while the member holds ice by virtue of which he or she is a member,	26 27
			or (c),	case of a member appointed under section 9 (1) (b) for such term (not exceeding 4 years) as may be ed in the member's instrument of appointment,	28 29 30
			(d), (e)	case of an elected member referred to in section 9 (1) b, (f) or (g), for such term (not exceeding 2 years) as e prescribed by the by-laws,	31 32 33

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		(d)	in the case of a member referred to in section 9 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	1 2 3 4 5
	(2)	The new	need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	6 7
		(a)	by the Council, when making the by-laws required under this clause, and	8 9
		(b)	by the Minister and the Council, when appointing members to the Council.	10 11
	(3)	cons	rson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Council otherwise ves in relation to the person).	12 13 14
2	Vaca	tion o	f office	15
		The mem	office of a member of the Council becomes vacant if the ber:	16 17
		(a)	dies, or	18
		(b)	declines to act, or	19
		(c)	resigns the office by writing under his or her hand addressed:	20 21
			(i) in the case of a member appointed by the Minister, to the Minister, or	22 23
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	24 25
			(iii) in the case of an elected member, to the Vice-Chancellor, or	26 27
		(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estate for their benefit, or	28 29 30 31
		(e)	becomes a mentally incapacitated person, or	32
		(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	33 34 35 36 37

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		(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	1 2 3
		(h)	is removed from office by the Council pursuant to section 21G, or	4 5
		(i)	is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Council for his or her absence, or	6 7 8 9 10
		(j)	in the case of an elected member, or a member appointed under section 9 (1) (h), ceases to be qualified for election or appointment, or	11 12 13
		(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	14 15
		(1)	in the case of a member appointed by the Council, is removed from office by the Council.	16 17
[12]	Sch	edule 2A		18
	Inse	t after Schedu	ule 2:	19
	Scl	nedule 24	A Duties of Council members	20
			(Section 21F)	21
	1	Duty to act	t in best interests of University	22
		A me	ember of the Council must carry out his or her functions:	23
		(a)	in good faith in the best interests of the University as a whole, and	24 25
		(b)	for a proper purpose.	26
	2	Duty to exe	ercise care and diligence	27
			ember of the Council must act honestly and exercise a onable degree of care and diligence in carrying out his or her tions.	28 29 30
	3	Duty not to	o improperly use position	31
			ember of the Council must not make improper use of his or osition:	32 33
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	34 35

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		(b)	to cause detriment to the University.	1
4	Duty	not to	o improperly use information	2
			nember of the Council must not make improper use of mation acquired because of his or her position:	3 4
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	5 6
		(b)	to cause detriment to the University.	7
5	Disc	losure	e of material interests by Council members	8
	(1)	If:		9
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	10 11 12
		(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	13 14 15
		come	nember must, as soon as possible after the relevant facts have e to the member's knowledge, disclose the nature of the est at a meeting of the Council.	16 17 18
	(2)	A di Cour	sclosure by a member of the Council at a meeting of the neil that the member:	19 20
		(a)	is a member, or is in the employment, of a specified company or other body, or	21 22
		(b)	is a partner, or is in the employment, of a specified person, or	23 24
		(c)	has some other specified interest relating to a specified company or other body or to a specified person,	25 26
		relat may	sufficient disclosure of the nature of the interest in any matter ing to that company or other body or to that person which arise after the date of the disclosure and which is required to isclosed under subclause (1).	27 28 29 30
	(3)	recor book	culars of any disclosure made under this clause must be rded by the Council in a book kept for the purpose and that a must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the ncil.	31 32 33 34 35

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(4)	intere	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	1 2 3		
	(a)	be present during any deliberation of the Council with respect to the matter, or	4 5		
	(b)	take part in any decision of the Council with respect to the matter.	6 7		
(5)	under	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	8 9 10		
	(a)	be present during any deliberation of the Council for the purpose of making the determination, or	11 12		
	(b)	take part in the making by the Council of the determination.	13 14		
(6)		ntravention of this clause does not invalidate any decision of ouncil.	15 16		
(7)	This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on any question relating to, the person's removal from office by the Council pursuant to section 21G.17 18 18 18 19 19 20				
(8)	and t	clause applies to a member of a committee of the Council he committee in the same way as it applies to a member of ouncil and the Council.	21 22 23		
(9)	in a 1 result	he purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may t in a detriment being suffered by or a benefit accruing to the ber or an associate of the member.	24 25 26 27		
(10)	In thi	s clause:	28		
	assoc	ciate of a member means any of the following:	29		
	(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	30 31		
	(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	32 33 34		
	(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	35 36 37		

[13]	Sche	edule 3	Savings and transitional provisions	1
	Inser	rt befor	e the heading to Part 1:	2
	Par	rt 1A	General	3
	1 A	Saviı	ngs or transitional regulations	4
		(1)	The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:	5 6 7
			University Legislation Amendment Act 2004	8
		(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	9 10
		(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	11 12 13
			(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	14 15 16
			(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	17 18 19
[14]	Sche	edule 3	B, Part 4	20
	Inser	rt after	Part 3:	21
	Par	rt 4	Provisions consequent on enactment of University Legislation Amendment Act 2004	22 23 24
	15	Defin	litions	25
			In this Part:	26
			<i>amending Act</i> means the University Legislation Amendment Act 2004.	27 28
			<i>former section 9</i> means section 9 as in force immediately before its substitution by the amending Act.	29 30
			<i>new section 9</i> means section 9 as substituted by the amending Act.	31 32
			<i>relevant day</i> means the date of assent to the amending Act.	33

Schedule 6 Amendment of University of Newcastle Act 1989 No 68

16	Gene	ral					
		The provisions of this Part are subject to any regulations made under clause 1A.					
17	Cons	titution of Council	2				
	(1)	Subject to this Act, on the relevant day:	Ę				
		(a) a person holding office under former section 9 (2) ceases to hold that office, and	6				
		 (b) a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and 	8 9 10 11				
		 (c) a person holding office under former section 9 (5) (a), (b), (c), (c1) or (d) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office. 	12 13 14 15				
	(2)	On, or as soon as is reasonably practicable after, the relevant day, the Minister must appoint the balance of the members required to be appointed under new section $9(1)$ (b).	16 17 18				
	(3)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 9 as soon as is reasonably practicable after the relevant day.	19 20 22 22				
	(4)	For the purposes of making the by-laws referred to in subclause (3), the Council must be constituted so as to include all of the members required to be appointed under new section 9 (1) (b).					
	(5)	The Council is taken to be properly constituted until such time as it is constituted in accordance with new section 9.					
	(6)	A casual vacancy occurring in the office of a member before the Council is duly constituted under new section 9 is to be filled as follows:	28 29 30				
		 (a) if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate, 	31 32 33				
		(b) if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	34 35 36				
		(c) if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	37 38 39				

Amendment of University of Newcastle Act 1989 No 68

		(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	1 2 3 4 5
		(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with Convocation.	6 7 8 9
	(7)	holds subc	ect to this Act, a member appointed under subclause (6) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	10 11 12 13
	(8)	Subj	ect to this Act, if, on the expiry:	14
		(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	15 16
		(b)	in the case of a member appointed under subclause (6), of the term of office of the member's predecessor,	17 18
		elect not y	by-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are ret in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	19 20 21 22
	(9)	vacat is tal unde	the purposes of subclause (1), a member filling a casual ncy and holding office immediately before the relevant day ken to hold that office immediately before the relevant day or the provision under which the member's predecessor was ed or appointed.	23 24 25 26 27
	(10)	A pe	rson who ceases to hold office under subclause (1) (a):	28
		(a)	is not entitled to any remuneration or compensation because of loss of that office, and	29 30
		(b)	is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	31 32
18	Maxi	mum	incumbency for Council members	33
	(1)	imm	secutive years of office served by a member of the Council ediately before the relevant day are to be taken into account plying clause 1 (3) of Schedule 1 in respect of the member.	34 35 36
	(2)		ever, clause 1 (3) of Schedule 1 does not affect the operation ause 17 (1) (b) or (c) or (8) of this Schedule.	37 38

Schedule 6 Amendment of University of Newcastle Act 1989 No 68

19 Application of section 21G

Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.

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20 Continuation of Council

No amendment made by the amending Act affects the continuity of the Council.

Amendment of University of Sydney Act 1989 No 124

Schedule 7			Amendment of University of Sydney Act 1989 No 124			1 2
					(Section 3)	3
[1]	Sect	ion 3 I	Defini	tions		4
	Inser	t after	sectio	on 3 (3)		5
		(4)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Sect	ion 9				7
	Omi	t the se	ection.	Insert	instead:	8
	9	Cons	stituti	on of S	Senate	9
		(1)	The	Senate	is to consist of:	10
			(a)	3 off	icial members, being:	11
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Senate), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
			(b)	is no	ternal persons appointed by the Minister, one of whom minated by the Senate for appointment otherwise than uant to subsection (2), and	20 21 22
			(c)	one	external person appointed by the Senate, and	23
			(d)	4 per	rsons:	24
				(i)	who are members of the academic staff of the University, and	25 26
				(ii)	who have such qualifications as may be prescribed by the by-laws, and	27 28
				(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	29 30 31
			(e)	one j	person:	32
				(i)	who is a member of the non-academic staff of the University, and	33 34
				(ii)	who has such qualifications as may be prescribed by the by-laws, and	35 36

Schedule 7	Amendment of University of Sydney Act 1989 No 124

		(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	1 2 3		
	(f)	one p	person:	4		
		(i)	who is an undergraduate student of the University	5		
			but who is not a member of the academic or non-academic staff of the University, and	6 7		
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	8 9		
		(iii)	who is elected by undergraduate students of the	10 11		
			University in the manner prescribed by the by-laws, and	12		
	(g)	one p	person:	13		
		(i)	who is a postgraduate student of the University but	14		
			who is not a member of the academic or non-academic staff of the University, and	15 16		
		(ii)	who has such qualifications as may be prescribed by	17 18		
		(;;;;)	the by-laws, and	10		
		(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws,	20		
			and	21		
	(h)	5 exte	ernal persons:	22		
		(i)	who are graduates of the University, and	23		
		(ii)	who have such qualifications as are prescribed by the by-laws, and	24 25		
		(iii)	who are elected by graduates of the University in the manner prescribed by the by-laws.	26 27		
(2)	The	Minist	er may appoint a person who is a member of the	28		
			of New South Wales under subsection (1) (b) but only	29 30		
	if the person is nominated by the Senate for appointment.					
			an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	31 32		
(3)	Of th	e mem	bers of the Senate:	33		
	(a)	at lea	ast 2 must have financial expertise (as demonstrated	34		
		by relevant qualifications and by experience in financial management at a senior level in the public or private		35 36		
		secto	30			
	(b)		east one must have commercial expertise (as	38		
			onstrated by relevant experience at a senior level in the	39 40		
		publi	c or private sector).	40		

Amendment of University of Sydney Act 1989 No 124

	(4)	All appointed members of the Senate must have expertise and experience relevant to the functions exercisable by the Senate and an appreciation of the object, values, functions and activities of the University.	1 2 3 4			
	(5)	The majority of members of the Senate must be external persons.	5			
	(6)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Senate.	6 7			
	(7)	Schedule 1 has effect in relation to the members and procedure of the Senate.	8 9			
	(8)	A reference in this section to members of the academic staff of the University includes a reference to such persons as the by-laws declare to be members of the academic staff of the University for the purposes of this section.	10 11 12 13			
	(9)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	14 15 16 17			
[3]	Section 16	Functions of Senate	18			
	Insert after section 16 (1A):					
	(1B)	Without limiting the functions of the Senate under subsection (1A), the Senate is, in controlling and managing the affairs and concerns of the University:	20 21 22			
		(a) to monitor the performance of the Vice-Chancellor, and	23			
		(b) to oversee the University's performance, and	24			
		(c) to oversee the academic activities of the University, and	25			
		(d) to approve the University's mission, strategic direction, annual budget and business plan, and	26 27			
		(e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	28 29 30 31 32 33			
		(f) to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	34 35 36			
		(g) to approve significant University commercial activities (within the meaning of section 26A), and	37 38			

	U	establish policies and procedural principles for the niversity consistent with legal requirements and ommunity expectations, and	1 2 3
	in	ensure that the University's grievance procedures, and formation concerning any rights of appeal or review onferred by or under any Act, are published in a form that readily accessible to the public, and	4 5 6 7
	fu	regularly review its own performance (in light of its inctions and obligations imposed by or under this or any her Act), and	8 9 10
	(k) to	adopt a statement of its primary responsibilities, and	11
		make available for Fellows a program of induction and f development relevant to their role as a Fellow.	12 13
[4]	Section 16, note		14
	Insert at the end of th	e section:	15
		e Annual Reports (Statutory Bodies) Act 1984 regulates the	16 17
	Senate to	f annual reports to Parliament by the Senate and requires the preport on the University's operations (including in relation to	18
	risk mana and other	agement and insurance arrangements) and a range of financial	19 20
[5]	Section 16A Contro	lled entities	21
	Omit "This section de	oes not itself confer" from section 16A (4).	22
	Insert instead "Nothing	ng in the preceding subsections confers".	23
[6]	Section 16A (5)		24
	Omit "This section de	oes not affect".	25
	Insert instead "Nothing	ng in the preceding subsections affects".	26
[7]	Section 16A (5A)		27
	Insert after section 16	5A (5):	28
	(5A) The Sen	ate is, as far as is reasonably practicable, to ensure:	29
	(a) th	at the governing bodies of controlled entities:	30
	(i) possess the expertise and experience necessary to provide proper stewardship and control, and	31 32
	(i	i) comprise, where possible, at least some members who are not members of the Senate or members of staff, or students, of the University, and	33 34 35
	(ii	i) adopt and evaluate their own governance principles, and	36 37

Amendment of University of Sydney Act 1989 No 124

				(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	1 2 3
			(b)		a protocol is established regarding reporting by rning bodies of controlled entities to the Senate.	4 5
[8]	Part	4A				6
	Inser	t after l	Part 4:			7
	Par	t 4A	Dut	ies c	of Fellows	8
	26F	Dutie	s of F	ellows	3	9
			The I	Fellow	s have the duties set out in Schedule 2A.	10
	26G	Remo	oval fr	om of	fice for breach of duty	11
		(1)			may remove a Fellow from office for breach of a duty chedule 2A.	12 13
		(2)	Sena Fello	te of w	Il from office may be effected only at a meeting of the which notice (including notice of the motion that the cerned be removed from office for breach of duty) ven.	14 15 16 17
		(3)	remo	val is s	I from office may be effected only if the motion for supported by at least a two-thirds majority of the total Fellows for the time being.	18 19 20
		(4)	unles oppo	s the	for removal must not be put to the vote of the meeting Fellow concerned has been given a reasonable to reply to the motion at the meeting, either orally or	21 22 23 24
		(5)	atten motio	d the	w to whom the motion for removal refers does not meeting, a reasonable opportunity to reply to the aken to have been given if notice of the meeting has iven.	25 26 27 28
		(6)			nay not be removed from office by the Senate for uty except pursuant to this section.	29 30
[9]	Sect	ion 36	By-la	ws		31
	Omi	t "(othe	r than	the par	rliamentary members)" from section 36 (1) (b).	32

[10]	Sect	ion 37	Rules	5	1			
	Omit and o	t "9 (5) clauses	and (9 1 (d) a	9), 10 (2), 14 (1), 16 (1) (d) and (e), 30 and 36 (1) (b) and (k) and (e)" from section 37 (1).	2 3			
				(1) (d)–(h), (6) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 30 (k) and clauses 1 (1) (c) and (d)".	4 5			
[11]	Sche Sena		l Provi	isions relating to Fellows and to the procedure of the	6 7			
	Omi	t claus	es 1 an	d 2. Insert instead:	8			
	1	1 Term of office						
		(1)	Subje	ect to this Act, a Fellow holds office as follows:	10			
			(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	11 12			
			(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	13 14 15			
			(c)	in the case of an elected member referred to in section 9 (1) (d), (e), (f) or (g), for such term (not exceeding 2 years) as may be prescribed by the by-laws,	16 17 18			
			(d)	in the case of an elected member referred to in section 9 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws.	19 20 21			
		(2)		need to maintain an appropriate balance of experienced and members on the Senate must be taken into account:	22 23			
			(a)	by the Senate, when making the by-laws required under this clause, and	24 25			
			(b)	by the Minister and the Senate, when appointing members to the Senate.	26 27			
		(3)	conse	rson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Senate otherwise resolves lation to the person).	28 29 30			
	2	Vaca	tion o	f office	31			
			The o	office of a Fellow becomes vacant if the Fellow:	32			
			(a)	dies, or	33			
			(b)	declines to act, or	34			

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(c)	resigns the office by writing under his or her hand addressed:	1 2
	(i) in the case of a Fellow appointed by the Minister, to the Minister, or	3 4
	(ii) in the case of a Fellow appointed by the Senate, to the Chancellor, or	5 6
	(iii) in the case of an elected Fellow, to the Vice-Chancellor, or	7 8
(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estate for their benefit, or	9 10 11 12
(e)	becomes a mentally incapacitated person, or	13
(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	14 15 16 17 18
(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	19 20 21
(h)	is removed from office by the Senate pursuant to section 26G, or	22 23
(i)	is absent from 3 consecutive meetings of the Senate of which reasonable notice has been given to the Fellow personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Senate for his or her absence, or	24 25 26 27 28
(j)	in the case of an elected Fellow, ceases to be qualified for election, or	29 30
(k)	in the case of a Fellow appointed by the Minister, is removed from office by the Minister, or	31 32
(1)	in the case of a Fellow appointed by the Senate, is removed from office by the Senate.	33 34
Schedule 1, claus	se 3 (2)	35
Omit "(otherwise	than to fill the office of a parliamentary member)".	36

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[13]	Sche	edule 2A		1	
	Insert after Schedule 2:				
	Scł	nedule 2/	A Duties of Fellows	3	
			(Section 26F)	4	
	1	Duty to act	t in best interests of University	5	
		A Fe	ellow must carry out his or her functions:	6	
		(a)	in good faith in the best interests of the University as a whole, and	7 8	
		(b)	for a proper purpose.	9	
	2	Duty to ex	ercise care and diligence	10	
			ellow must act honestly and exercise a reasonable degree of and diligence in carrying out his or her functions.	11 12	
	3	Duty not to	o improperly use position	13	
		A Fe	ellow must not make improper use of his or her position:	14	
		(a)	to gain, directly or indirectly, an advantage for the Fellow or another person, or	15 16	
		(b)	to cause detriment to the University.	17	
	4	Duty not to	o improperly use information	18	
			ellow must not make improper use of information acquired use of his or her position:	19 20	
		(a)	to gain, directly or indirectly, an advantage for the Fellow or another person, or	21 22	
		(b)	to cause detriment to the University.	23	
	5	Disclosure	e of material interests by Fellows	24	
		(1) If:		25	
		(a)	a Fellow has a material interest in a matter being considered or about to be considered at a meeting of the Senate, and	26 27 28	

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Schedule 7

the interest appears to raise a conflict with the proper 1 (b) performance of the Fellow's duties in relation to the 2 3 consideration of the matter, 4 the Fellow must, as soon as possible after the relevant facts have 5 come to the Fellow's knowledge, disclose the nature of the interest at a meeting of the Senate. 6 7 (2)A disclosure by a Fellow at a meeting of the Senate that the 8 Fellow: 9 (a) is a member, or is in the employment, of a specified 10 company or other body, or (b) is a partner, or is in the employment, of a specified person, 11 12 or 13 (c) has some other specified interest relating to a specified 14 company or other body or to a specified person, 15 is a sufficient disclosure of the nature of the interest in any matter 16 relating to that company or other body or to that person which 17 may arise after the date of the disclosure and which is required to 18 be disclosed under subclause (1). 19 (3) Particulars of any disclosure made under this clause must be 20 recorded by the Senate in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any 21 22 person on payment of a reasonable fee determined by the Senate. 23 After a Fellow has disclosed the nature of an interest in any (4) 24 matter, the Fellow must not, unless the Senate otherwise 25 determines: 26 be present during any deliberation of the Senate with (a) 27 respect to the matter, or 28 take part in any decision of the Senate with respect to the (b) 29 matter. 30 (5) For the purpose of the making of a determination by the Senate under subclause (4), a Fellow who has a material interest in a 31 32 matter to which the disclosure relates must not: 33 (a) be present during any deliberation of the Senate for the purpose of making the determination, or 34 35 take part in the making by the Senate of the determination. (b) 36 (6) A contravention of this clause does not invalidate any decision of 37 the Senate.

	(7)	consi relati	clause does not prevent a person from taking part in the ideration or discussion of, or from voting on any question ing to, the person's removal from office by the Senate lant to section 26G.	1 2 3 4
	(8)	the c	clause applies to a member of a committee of the Senate and ommittee in the same way as it applies to a member of the te and the Senate.	5 6 7
	(9)	a mat in a	he purposes of this clause, a Fellow has a material interest in tter if a determination of the Senate in the matter may result detriment being suffered by or a benefit accruing to the ow or an associate of the Fellow.	8 9 10 11
	(10)	In thi	is clause:	12
		assoc	ciate of a Fellow means any of the following:	13
		(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the Fellow,	14 15
		(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the Fellow,	16 17 18
		(c)	any other person who is known to the Fellow for reasons other than that person's connection with the University or that person's public reputation.	19 20 21
Sche	edule 3	Savir	ngs and transitional provisions	22
Inser	t befor	e claus	se 1:	23
1A	Savii	ngs or	transitional regulations	24
	(1)	savin	Governor may make regulations containing provisions of a ags or transitional nature consequent on the enactment of the wing Acts:	25 26 27
		Univ	ersity Legislation Amendment Act 2004	28
	(2)	Any s from	such provision may, if the regulations so provide, take effect the date of assent to the Act concerned or a later date.	29 30
	(3)	that i	e extent to which any such provision takes effect from a date is earlier than the date of its publication in the Gazette, the ision does not operate so as:	31 32 33
		(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	34 35 36

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			(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	1 2 3			
[15]	Schedule 3, clause 14							
	Insert after clause 13:							
	14	4 Provisions consequent on enactment of University Legislation Amendment Act 2004						
		(1)	In this clause:					
			<i>amending Act</i> means the University Legislation Amendment Act 2004.					
				<i>ther section 9</i> means section 9 as in force immediately before abstitution by the amending Act.	11 12			
			<i>new</i> Act.	section 9 means section 9 as substituted by the amending	13 14			
			relev	vant day means the date of assent to the amending Act.	15			
		(2)	Subject to this Act, on the relevant day:					
			(a)	a person holding office under former section 9 (2) ceases to hold that office, and	17 18			
			(b)	a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	19 20 21 22			
			(c)	a person holding office under former section 9 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office.	23 24 25 26			
		(3)	the N	or as soon as is reasonably practicable after, the relevant day, Ainister must appoint the balance of the members required to ppointed under new section 9 (1) (b).	27 28 29			
		(4)	nece: duly	Senate is to make all necessary by-laws and take all ssary steps to ensure, as far as possible, that the Senate is constituted under new section 9 as soon as is reasonably ticable after the relevant day.	30 31 32 33			
		(5)	(4), 1	the purposes of making the by-laws referred to in subclause the Senate must be constituted so as to include all of the abers required to be appointed under new section 9 (1) (b).	34 35 36			
		(6)		Senate is taken to be properly constituted until such time as constituted in accordance with new section 9.	37 38			

(7)	A casual vacancy occurring in the office of a Fellow before the Senate is duly constituted under new section 9 is to be filled as follows:						
	(a)	if the vacancy occurs in the office of a Fellow appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	4 5 6				
	(b)	if the vacancy occurs in the office of a Fellow appointed under new section 9 (1) (c), the Senate is to appoint a person whom the Senate considers appropriate,	7 8 9				
	(c)	if the vacancy occurs in the office of a Fellow elected under new section 9 (1) (d) or (e), the Senate is to appoint a person qualified to hold that office,	10 11 12				
	(d)	if the vacancy occurs in the office of a Fellow elected under new section 9 (1) (f) or (g), the Senate is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Senate,	13 14 15 16 17				
	(e)	if the vacancy occurs in the office of a Fellow elected under new section 9 (1) (h), the Senate is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	18 19 20 21				
(8)	offic	ect to this Act, a Fellow appointed under subclause (7) holds be from the time that person is appointed under that subclause the expiry of the term of that Fellow's predecessor.	22 23 24				
(9)	Subj	ect to this Act, if, on the expiry:	25				
	(a)	of a Fellow's term of office that is continued under subclause (2) (b) or (c), or	26 27				
	(b)	in the case of a Fellow appointed under subclause (7), of the term of office of the Fellow's predecessor,	28 29				
	the by-laws necessary to enable a person to be duly appointed or elected (as the case may be) to that office under new section 9 are not yet in force, the Fellow may continue to hold that office until such time as a person is so duly appointed or elected.						
(10)	vaca is tal unde	For the purposes of subclause (2), a Fellow filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the Fellow's predecessor was elected or appointed.					
(11)	A pe	erson who ceases to hold office under subclause (2) (a):	39				
	(a)	is not entitled to any remuneration or compensation because of loss of that office, and	40 41				

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	(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a Fellow.	1 2
(12)	Consecutive years of office served by a Fellow immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the Fellow.	3 4 5
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	6 7
(14)	Section 26G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	8 9 10
(15)	No amendment made by the amending Act affects the continuity of the Senate.	11 12
(16)	The provisions of this clause are subject to any regulations made under clause 1A.	13 14

Schedule 8	Amendment of University of Technology, Sydney, A	ct 1989 No 69

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

(Section 3)

1 2

3

[1]	Section 3 Definitions							
	Inser	t after	sectio	on 3 (3)	:	5		
		(4)	Note	es inclu	ded in this Act do not form part of this Act.	6		
[2]	Sect	ion 9				7		
	Omit the section. Insert instead:							
	9	Cons	Constitution of Council					
		(1)	The Council is to consist of:					
			(a)	(a) 3 official members, being:				
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13		
				(ii)	the Vice-Chancellor, and	14		
				(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19		
			(b)		ternal persons appointed by the Minister from, as far acticable, the following categories:	20 21		
				(i)	persons experienced in the field of education,	22		
				(ii)	persons experienced in technology, industry, business, human services or industrial relations,	23 24		
				(iii)	persons who are practising, or have practised, a profession,	25 26		
				(iv)	persons who, in the opinion of the Minister, are likely to contribute to the cultural diversity of the University,	27 28 29		
				(v)	persons having such other qualifications and experience as the Minister thinks appropriate, and	30 31		
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	32 33		
			(d)	2 per	sons:	34		
				(i)	who are members of the academic staff of the University, and	35 36		

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

	(ii)	who have such qualifications as may be prescribed by the by-laws, and	1 2
	(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	3 4 5
(e)	one p	person:	6
	(i)	who is a member of the non-academic staff of the University, and	7 8
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	9 10
	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	11 12 13
(f)	one p	person:	14
	(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	15 16 17
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	18 19
	(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	20 21 22
(g)	one p	person:	23
	(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	24 25 26
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	27 28
	(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	29 30 31
(h)		or more external persons (being such number as is cribed by the by-laws):	32 33
	(i)	who are members of Convocation, and	34
	(ii)	who have such qualifications as are prescribed by the by-laws, and	35 36
	(iii)	who are (as prescribed by the by-laws) elected by members of Convocation in the manner prescribed by the by-laws or appointed by the Council.	37 38 39

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

(2)The by-laws may not prescribe a number of members for the 1 purposes of subsection (1) (c) or (h) that when added to the 2 3 number of other members to be appointed or elected to the 4 Council would exceed 22. 5 A person appointed under subsection (1) (h) is appointed in (3) addition to any member appointed under subsection (1) (c). 6 7 (4) The Minister may appoint a person who is a member of the 8 Parliament of New South Wales under subsection (1) (b) but only 9 if the person is nominated by the Council for appointment. 10 No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b). 11 12 (5) Of the members of the Council: 13 (a) at least 2 must have financial expertise (as demonstrated 14 by relevant qualifications and by experience in financial 15 management at a senior level in the public or private 16 sector), and 17 at least one must have commercial expertise (as (b) 18 demonstrated by relevant experience at a senior level in the 19 public or private sector). 20 (6) All appointed members of the Council must have expertise and 21 experience relevant to the functions exercisable by the Council 22 and an appreciation of the object, values, functions and activities 23 of the University. (7) 24 The majority of members of the Council must be external 25 persons. 26 The by-laws are to prescribe the procedures for the nomination of (8) 27 persons for appointment as members of the Council. 28 (9) Schedule 1 has effect in relation to the members and procedure of 29 the Council. 30 (10)A reference in this section to external persons is a reference to 31 persons who are not members of the academic or non-academic 32 staff of the University or undergraduate or postgraduate students 33 of the University.

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[3]	Section 16 Functions of Council Insert after section 16 (1A):					
	(1B)	Without limiting the functions of the Council under subsection (1A), the Council is, in controlling and managing the affairs and concerns of the University:				
		(a)	to monitor the performance of the Vice-Chancellor, and	6		
		(b)	to oversee the University's performance, and	7		
		(c)	to oversee the academic activities of the University, and	8		
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	9 10		
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	11 12 13 14 15 16		
		(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	17 18 19		
		(g)	to approve significant University commercial activities (within the meaning of section 21A), and	20 21		
		(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	22 23 24		
		(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	25 26 27 28		
		(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	29 30 31		
		(k)	to adopt a statement of its primary responsibilities, and	32		
		(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	33 34 35		

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[4]	Section 16	, note		1				
	Insert at the	Note. The making of Council to	Annual Reports (Statutory Bodies) Act 1984 regulates the annual reports to Parliament by the Council and requires the report on the University's operations (including in relation to gement and insurance arrangements) and a range of financial	2 3 4 5 6 7				
[5]	Section 16	A Controll	ed entities	8				
	Omit "This section does not itself confer" from section 16A (4).							
	Insert instead "Nothing in the preceding subsections confers".							
[6]	Section 16	A (5)		11				
	Omit "This section does not affect".							
	Insert instead "Nothing in the preceding subsections affects".							
[7]	Section 16	A (5A)		14				
	Insert after section 16A (5):							
	(5A)	The Cour	cil is, as far as is reasonably practicable, to ensure:	16				
		(a) that	t the governing bodies of controlled entities:	17				
		(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	18 19				
		(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	20 21 22				
		(iii)	adopt and evaluate their own governance principles, and	23 24				
		(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	25 26 27				
			t a protocol is established regarding reporting by verning bodies of controlled entities to the Council.	28 29				

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

Schedule 8

[8]	Part 4A Insert after Part 4:				
	Inser	t after l	Part 4:	2	
	Par	t 4A	Duties of Council members	3	
	21F	Dutie	es of Council members	4	
			The members of the Council have the duties set out in Schedule 2A.	5 6	
	21G	Remo	oval from office for breach of duty	7	
		(1)	The Council may remove a member of the Council from office for breach of a duty set out in Schedule 2A.	8 9	
(2)			The removal from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed from office for breach of duty) was duly given.	10 11 12 13	
	(3)	(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of members for the time being of the Council.	14 15 16	
		(4)	The motion for removal must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	17 18 19 20	
		(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	21 22 23 24	
		(6)	A member of the Council may not be removed from office by the Council for breach of duty except pursuant to this section.	25 26	
[9]	Secti	on 28	By-laws	27	
	Omit	"(othe	er than the parliamentary members)" from section 28 (1) (b).	28	
[10]	Secti	on 29	Rules	29	
	Omit "9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e)" from section 29 (1).				
			ad "9 (1) (c)–(h) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and nd (k) and clauses 1 (1) (c) and (d)".	32 33	

Schedule 8	Amendment of University of	of Technology,	Sydney,	Act 1989 No 69
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[11]	Schedule 1 Provisions relating to members and procedure of the Council Omit clauses 1 and 2. Insert instead:					
		(1)	Subj follo		his Act, a member of the Council holds office as	4 5
			(a)		case of an official member, while the member holds fice by virtue of which he or she is a member,	6 7
			(b)	or (c),	case of a member appointed under section 9 (1) (b) for such term (not exceeding 4 years) as may be ied in the member's instrument of appointment,	8 9 10
			(c)	(d), (e)	case of an elected member referred to in section 9 (1)), (f) or (g), for such term (not exceeding 2 years) as e prescribed by the by-laws,	11 12 13
			(d)	such te the by in the	case of a member referred to in section 9 (1) (h), for erm (not exceeding 4 years) as may be prescribed by -laws (in the case of an elected member) or specified member's instrument of appointment (in the case of pointed member).	14 15 16 17 18
		(2)	The new	need to member	maintain an appropriate balance of experienced and so on the Council must be taken into account:	19 20
			(a)		Council, when making the by-laws required under ause, and	21 22
			(b)		e Minister and the Council, when appointing ers to the Council.	23 24
		(3)	cons	ecutive	st not be appointed or elected to serve more than 12 years of office (unless the Council otherwise elation to the person).	25 26 27
	2	Vacation of office				
			The mem		f a member of the Council becomes vacant if the	29 30
			(a)	dies, o	r	31
			(b)	declin	es to act, or	32
			(c)	resign: addres	s the office by writing under his or her hand issed:	33 34
					in the case of a member appointed by the Minister, to the Minister, or	35 36
					in the case of a member appointed by the Council, to the Chancellor, or	37 38

[12]

Schedule 8

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	becomes bankrupt, applies to take the benefit of any law	3
	for the relief of bankrupt or insolvent debtors, compounds	4
	with his or her creditors or makes any assignment of his or	5 6
(a)	her estate for their benefit, or	7
(e)	becomes a mentally incapacitated person, or	
(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is	8 9
	convicted elsewhere than in New South Wales of an	10
	offence that, if committed in New South Wales, would be	11
	an offence so punishable, or	12
(g)	is, or becomes, disqualified from managing a corporation	13
	under Part 2D.6 of the Corporations Act 2001 of the	14 15
(1)	Commonwealth, or	
(h)	is removed from office by the Council pursuant to section 21G, or	16 17
(i)	is absent from 3 consecutive meetings of the Council of	18
	which reasonable notice has been given to the member	19 20
	personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by	20
	the Council for his or her absence, or	22
(j)	in the case of an elected member, or a member appointed	23
0/	under section 9 (1) (h), ceases to be qualified for election	24
	or appointment, or	25
(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
(1)	in the case of a member appointed by the Council, is	28
(-)	removed from office by the Council.	29
Schedule 2A		30
Insert after Schedu	ule 2:	31
Schedule 2	A Duties of Council members	32
	(Section 21F)	33
1 Duty to act	in best interests of University	34
A me	ember of the Council must carry out his or her functions:	35
(a)	in good faith in the best interests of the University as a	36
. ,	whole, and	37

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

		(b)	for a proper purpose.	1
2	Duty	to ex	ercise care and diligence	2
		reasc	ember of the Council must act honestly and exercise a onable degree of care and diligence in carrying out his or her tions.	3 4 5
3	Duty	not to	o improperly use position	6
			ember of the Council must not make improper use of his or position:	7 8
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	9 10
		(b)	to cause detriment to the University.	11
4	Duty	not to	o improperly use information	12
			member of the Council must not make improper use of mation acquired because of his or her position:	13 14
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	15 16
		(b)	to cause detriment to the University.	17
5	Discl	osure	e of material interests by Council members	18
	(1)	If:		19
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	20 21 22
		(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	23 24 25
		come	nember must, as soon as possible after the relevant facts have e to the member's knowledge, disclose the nature of the est at a meeting of the Council.	26 27 28
	(2)		sclosure by a member of the Council at a meeting of the neil that the member:	29 30
		(a)	is a member, or is in the employment, of a specified company or other body, or	31 32
		(b)	is a partner, or is in the employment, of a specified person, or	33 34

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	relati may a	has some other specified interest relating to a specified company or other body or to a specified person, ufficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	1 2 3 4 5 6
(3)	recor book	culars of any disclosure made under this clause must be ded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the scil.	7 8 9 10 11
(4)	intere	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	12 13 14
	(a)	be present during any deliberation of the Council with respect to the matter, or	15 16
	(b)	take part in any decision of the Council with respect to the matter.	17 18
(5)	under	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	19 20 21
	(a)	be present during any deliberation of the Council for the purpose of making the determination, or	22 23
	(b)	take part in the making by the Council of the determination.	24 25
(6)		ntravention of this clause does not invalidate any decision of ouncil.	26 27
(7)	consi relati	clause does not prevent a person from taking part in the deration or discussion of, or from voting on any question ng to, the person's removal from office by the Council ant to section 21G.	28 29 30 31
(8)	and t	clause applies to a member of a committee of the Council he committee in the same way as it applies to a member of ouncil and the Council.	32 33 34
(9)	in a 1 result	he purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may t in a detriment being suffered by or a benefit accruing to the ber or an associate of the member.	35 36 37 38

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		(10)	In this clause:	1
			associate of a member means any of the following:	2
			(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	3 4
			(b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	5 6 7
			(c) any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	8 9 10
[13]	Sche	dule 3	Savings and transitional provisions	11
	Inser	t before	e the heading to Part 1:	12
	Part 1A General		General	13
	1A Sav	Savir	ngs or transitional regulations	14
		(1)	The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:	15 16 17
			University Legislation Amendment Act 2004	18
		(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	19 20
		(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	21 22 23
			(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	24 25 26
			(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	27 28 29

	Amendment of Univers	ty of Technology,	Sydney, Act 1989 No 69
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[14] Schedule 3, Part 4 Insert after Part 3. Part 4 Provisions consequent on enactment of University Legislation Amendment Act 2004 15 Definitions In this Part: amending Act means the University Legislation Amendment Act 2004. 10 *former section 9* means section 9 as in force immediately before its substitution by the amending Act. 11 new section 9 means section 9 as substituted by the amending 12 13 Act. 14 *relevant day* means the date of assent to the amending Act. 15 16 General 16 The provisions of this Part are subject to any regulations made 17 under clause 1A. 17 **Constitution of Council** 18 19 Subject to this Act, on the relevant day: (1)20 a person holding office under former section 9 (2) ceases (a) to hold that office, and 21 22 a person holding office under former section 9(4) or (6) is (b) 23 taken to be appointed as a member under new section 9(1)24 (b) or (c), respectively, for the balance of the person's term 25 of office, and 26 a person holding office under former section 9 (5) (a), (b), (c) 27 (c), (c1) or (d) is taken to be elected as a member under 28 new section 9 (1) (d), (e), (f), (g) or (h), respectively, for 29 the balance of the person's term of office. 30 (2)The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is 31 duly constituted under new section 9 as soon as is reasonably 32 33 practicable after the relevant day. 34

(3) For the purposes of making the by-laws referred to in subclause (2), the Council must be constituted so as to include all of the members required to be appointed under new section 9(1)(b).

Schedule 8

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Schedule 8	Amendment of University of Technology, Sydney, Act 1989 No 69
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- (4) The Council is taken to be properly constituted until such time as it is constituted in accordance with new section 9.
- (5) A casual vacancy occurring in the office of a member before the Council is duly constituted under new section 9 is to be filled as follows:
 - (a) if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,

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- (b) if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,
- (c) if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,
- (d) if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,
- (e) if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with members of Convocation whose names are entered in the Roll of Convocation.
- (6) Subject to this Act, a member appointed under subclause (5) holds office from the time that person is appointed under that subclause until the expiry of the term of that member's predecessor.
- (7) Subject to this Act, if, on the expiry:
 - (a) of a member's term of office that is continued under subclause (1) (b) or (c), or
 - (b) in the case of a member appointed under subclause (5), of the term of office of the member's predecessor,

the by-laws necessary to enable a person to be duly appointed or elected (as the case may be) to that office under new section 9 are not yet in force, the member may continue to hold that office until such time as a person is so duly appointed or elected.

Amendment of University of Technology	/ Svdnev, Act 1989 No 69	Schedule 8
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	(8)	For the purposes of subclause (1), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
	(9)	A person who ceases to hold office under subclause (1) (a):	6
		(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8
		(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10
18	Maxi	imum incumbency for Council members	11
	(1)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	12 13 14
	(2)	However, clause 1 (3) of Schedule 1 does not affect the operation of clause 17 (1) (b) or (c) or (7) of this Schedule.	15 16
19	App	lication of section 21G	17
		Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	18 19 20
20	Con	tinuation of Council	21
		No amendment made by the amending Act affects the continuity of the Council.	22 23

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

(Section 3)

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[1]	Sect	ion 3	Defini	tions		4	
	Inser	t after	sectio	on 3 (2)		5	
		(3)	Note	es inclu	ded in this Act do not form part of this Act.	6	
[2]	Sect	ion 12				7	
	Omit	the se	ection.	Insert	instead:	8	
	12	2 Constitution of Board					
		(1)	The Board is to consist of:				
			(a)	5 off	icial members, being:	11	
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Board), and	12 13	
				(ii)	the Vice-Chancellor, and	14	
				(iii)	the Deputy Chancellors, and	15	
				(iv)	the Chair of the Academic Senate, and	16	
			(b)		ternal persons appointed by the Minister who, in the ion of the Minister:	17 18	
				(i)	each have an interest in Greater Western Sydney and its development or an interest in the students or other clients of the University, and	19 20 21	
				(ii)	bring to the Board suitable levels of knowledge, skills and experience in matters such as strategic planning, human resources or educational or financial matters, and	22 23 24 25	
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Board, and	26 27	
			(d)	one	person:	28	
				(i)	who is a member of the academic staff of the University, and	29 30	
				(ii)	who has such qualifications as may be prescribed by the by-laws, and	31 32	
				(iii)	who is elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	33 34 35	

Amendment of University of Western Sydney Act 1997 No 116

	(e) (e)	one p	erson:	1
		(i)	who is a member of the general staff of the University, and	2 3
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	4 5
	(iii)	who is elected by members of the general staff of the University in the manner prescribed by the by-laws, and	6 7 8
	(f) (f)	one p	erson:	9
		(i)	who is an undergraduate student of the University but who is not a member of the academic or general staff of the University, and	10 11 12
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	13 14
	(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	15 16 17
	(g) (one p	erson:	18
		(i)	who is a postgraduate student of the University but who is not a member of the academic or general staff of the University, and	19 20 21
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	22 23
	(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	24 25 26
			or more external persons (being such number as is ribed by the by-laws):	27 28
		(i)	who are graduates of the University, and	29
	((ii)	who have such qualifications as are prescribed by the by-laws, and	30 31
	(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Board.	32 33 34
(2)	purpos	es of r of o	s may not prescribe a number of members for the subsection (1) (c) or (h) that when added to the ther members to be appointed or elected to the Board ed 22.	35 36 37 38
(3)	A pers additio	on a n to a	ppointed under subsection (1) (h) is appointed in any member appointed under subsection (1) (c).	39 40

Schedule 9	Amendment of University of Western Sydney Act 1997 No 116
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(4)	•) The Minister may appoint a person who is a member of the Parliament of New South Wales under subsection (1) (b) but only if the person is nominated by the Board for appointment.			
	No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b).	4 5		
(5)	Of the members of the Board:	6		
	(a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	7 8 9 10		
	(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	11 12 13		
(6)	All appointed members of the Board must have expertise and experience relevant to the functions exercisable by the Board and an appreciation of the object, values, functions and activities of the University.	14 15 16 17		
(7)	The majority of members of the Board must be external persons.	18		
(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Board.	19 20		
(9)	Schedule 1 has effect in relation to the members and procedure of the Board.	21 22		
(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or general staff of the University or undergraduate or postgraduate students of the University.	23 24 25 26		
(11)	For the purposes of this section, <i>general staff</i> of the University excludes the academic staff of the University.	27 28		
Section 22	Functions of Board	29		
Insert after	section 22 (1A):	30		
(1B)	Without limiting the functions of the Board under subsection (1A), the Board is, in controlling and managing the affairs and concerns of the University:	31 32 33		
	(a) to monitor the performance of the Vice-Chancellor, and	34		
	(b) to oversee the University's performance, and	35		
	(c) to oversee the academic activities of the University, and	36		

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Amendment of University of Western Sydney Act 1997 No 116

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(d)	to approve the University's mission, strategic direction,
	annual budget and business plan, and

- (e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and
- (f) to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 22A), and
- (g) to approve significant University commercial activities (within the meaning of section 32A), and
- (h) to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and
- (i) to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and
- (j) to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and
- (k) to adopt a statement of its primary responsibilities, and
- (l) to make available for members of the Board a program of induction and of development relevant to their role as such a member.

[4] Section 22, note

Insert at the end of the section:

Note. The Annual Reports (Statutory Bodies) Act 1984 regulates the making of annual reports to Parliament by the Board and requires the Board to report on the University's operations (including in relation to risk management and insurance arrangements) and a range of financial and other matters.

[5] Section 22A Controlled entities

Omit "This section does not itself confer" from section 22A (4).36Insert instead "Nothing in the preceding subsections confers".37

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

[6]	Sect	ion 22	x (5)		1
	Omi	t "This	section does not affect".		2
	Inser	t instea	d "Nothing in the preceding	subsections affects".	3
[7]	Sect	ion 22	(5A)		4
	Inser	t after	ection 22A (5):		5
		(5A)	The Board is, as far as is rea	sonably practicable, to ensure:	6
				dies of controlled entities:	7
				pertise and experience necessary to stewardship and control, and	8 9
			who are not m	re possible, at least some members embers of the Board or members of ts, of the University, and	10 11 12
			(iii) adopt and evaluand	ate their own governance principles,	13 14
			business strat	d keep updated, a corporate or egy containing achievable and formance targets, and	15 16 17
				established regarding reporting by ontrolled entities to the Board.	18 19
[8]	Part	4A			20
	Inser	t after	Part 4:		21
	Par	t 4A	Duties of Board me	embers	22
	32F	Dutie	s of Board members		23
			The members of the Board h	ave the duties set out in Schedule 2A.	24
	32G	Rem	val from office for breach	of duty	25
		(1)	The Board may remove a n breach of a duty set out in S	nember of the Board from office for chedule 2A.	26 27
		(2)	Board of which notice (inc	y be effected only at a meeting of the luding notice of the motion that the wed from office for breach of duty)	28 29 30 31
		(3)		ay be effected only if the motion for east a two-thirds majority of the total time being of the Board.	32 33 34

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

	(4)	unles oppo	motion for removal must not be put to the vote of the meeting ss the member concerned has been given a reasonable ortunity to reply to the motion at the meeting, either orally or riting.	1 2 3 4	
	(5)	atten moti	e member to whom the motion for removal refers does not d the meeting, a reasonable opportunity to reply to the on is taken to have been given if notice of the meeting has duly given.	5 6 7 8	
	(6)		ember of the Board may not be removed from office by the of for breach of duty except pursuant to this section.	9 10	
[9]	Section 38	Limit	ed tenure in certain positions	11	
			ter may, by order, grant a person an exemption from this ction 38 (3).	12 13	
	Insert instea the Board".		person may be exempted from this section by resolution of	14 15	
[10]	Section 38	(6) (d) and (e)	16	
	Omit the pa	ragrap	bhs. Insert instead:	17	
		(d)	in the case of an elected member of the Board referred to in section 12 (1) (d), (e), (f) or (g)-2 years,	18 19	
		(e)	in the case of an elected member of the Board referred to in section $12(1)(h)$ —4 years.	20 21	
[11]	Section 40	By-la	ws	22	
	Omit "(othe	er than	the parliamentary members)" from section 40 (1) (b).	23	
[12]	Section 41	Rules	5	24	
	Omit "12 (5), 13 (2), 14 (2), 22 (1) (e) and (f) and 40 (1) (b) and clauses 1 (d) and (e)" from section 41 (1).				
	Insert instead "12 (1) (c)–(h) and (8), 13 (2), 14 (2), 22 (1) (e) and (f) and 40 (1) (b) and clauses 1 (1) (c) and (d)".				

[13]	Schedule 1 Provisions relating to members and procedure of Board					
	Omi	t clause	es 1 an	ad 2. Insert instead:	2	
	1	Term of office				
		(1)	Subject to this Act, a member of the Board holds office as follows:			
			(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	6 7	
			(b)	in the case of a member appointed under section 12 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	8 9 10	
			(c)	in the case of an elected member referred to in section 12 (1) (d), (e), (f) or (g), for such term (not exceeding 2 years) as may be prescribed by the by-laws,	11 12 13	
			(d)	in the case of a member referred to in section 12 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	14 15 16 17 18	
		(2)		need to maintain an appropriate balance of experienced and members on the Board must be taken into account:	19 20	
			(a)	by the Board, when making the by-laws required under this clause, and	21 22	
			(b)	by the Minister and the Board, when appointing members to the Board.	23 24	
	2	Vaca	ation o	of office	25	
			The mem	office of a member of the Board becomes vacant if the aber:	26 27	
			(a)	dies, or	28	
			(b)	in the case of an appointed or elected member, transfers his or her place of permanent residence to a place that is not within the State or the Australian Capital Territory, or	29 30 31	
			(c)	declines to act, or	32	
			(d)	resigns the office by writing under his or her hand addressed:	33 34	
				(i) in the case of a member appointed by the Minister, to the Minister, or	35 36	
				(ii) in the case of a member appointed by the Board, to the Chancellor, or	37 38	

Amendment of University of Western Sydney Act 1997 No 116

		(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
	(e)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estate for their benefit, or	3 4 5 6
	(f)	becomes a mentally incapacitated person, or	7
	(g)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	8 9 10 11 12
	(h)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	13 14 15
	(i)	is removed from office by the Board pursuant to section 32G, or	16 17
	(j)	is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Board for his or her absence, or	18 19 20 21 22
	(k)	in the case of an elected member, or a member appointed under section 12 (1) (h), ceases to be qualified for election or appointment, or	23 24 25
	(l)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
	(m)	in the case of a member appointed by the Board, is removed from office by the Board.	28 29
[14]	Schedule 1, clau	se 3 (2)	30
_	Omit the subclaus		31
[15]	Schedule 1, clau	lse 3 (3)	32
		than to fill the office of a parliamentary member)".	33

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

[16]		edule 2A		1
	Inser	t after Sched	lule 2:	2
	Scł	nedule 2/	A Duties of Board members	3
			(Section 32F)	4
	1	Duty to ac	t in best interests of University	5
		A m	ember of the Board must carry out his or her functions:	6
		(a)	in good faith in the best interests of the University as a whole, and	7
		(b)	for a proper purpose.	g
	2	Duty to ex	ercise care and diligence	10
		rease	nember of the Board must act honestly and exercise a onable degree of care and diligence in carrying out his or her tions.	11 12 13
	3	Duty not to	o improperly use position	14
		A me posit	ember of the Board must not make improper use of his or her tion:	15 16
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	17 18
		(b)	to cause detriment to the University.	19
	4	Duty not to	o improperly use information	20
			nember of the Board must not make improper use of rmation acquired because of his or her position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	5	Disclosure	e of material interests by Board members	26
		(1) If:		27
		(a)	a member of the Board has a material interest in a matter being considered or about to be considered at a meeting of the Board, and	28 29 30

Amendment of University of Western Sydney Act 1997 No 116

Schedule 9

the interest appears to raise a conflict with the proper 1 (b) performance of the member's duties in relation to the 2 3 consideration of the matter, 4 the member must, as soon as possible after the relevant facts have 5 come to the member's knowledge, disclose the nature of the interest at a meeting of the Board. 6 7 (2)A disclosure by a member of the Board at a meeting of the Board 8 that the member: 9 is a member, or is in the employment, of a specified (a) 10 company or other body, or (b)is a partner, or is in the employment, of a specified person, 11 12 or 13 (c) has some other specified interest relating to a specified 14 company or other body or to a specified person, 15 is a sufficient disclosure of the nature of the interest in any matter 16 relating to that company or other body or to that person which 17 may arise after the date of the disclosure and which is required to 18 be disclosed under subclause (1). 19 (3) Particulars of any disclosure made under this clause must be 20 recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any 21 22 person on payment of a reasonable fee determined by the Board. (4) 23 After a member of the Board has disclosed the nature of an 24 interest in any matter, the member must not, unless the Board 25 otherwise determines: 26 be present during any deliberation of the Board with (a) 27 respect to the matter, or 28 take part in any decision of the Board with respect to the (b) 29 matter. 30 (5) For the purpose of the making of a determination by the Board under subclause (4), a member of the Board who has a material 31 32 interest in a matter to which the disclosure relates must not: 33 (a) be present during any deliberation of the Board for the purpose of making the determination, or 34 35 take part in the making by the Board of the determination. (b) 36 (6) A contravention of this clause does not invalidate any decision of 37 the Board.

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

	(7)	This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on any question relating to, the person's removal from office by the Board pursuant to section 32G.	1 2 3 4
	(8)	This clause applies to a member of a committee of the Board and the committee in the same way as it applies to a member of the Board and the Board.	5 6 7
	(9)	For the purposes of this clause, a member has a material interest in a matter if a determination of the Board in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.	8 9 10 11
	(10)	In this clause:	12
		associate of a member means any of the following:	13
		(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	14 15
		(b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	16 17 18
		(c) any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	19 20 21
[17]	Schedule 4	a Savings, transitional and other provisions	22
	Insert at the	e end of clause 1 (1):	23
		University Legislation Amendment Act 2004	24
[18]	Schedule 4	I, Part 5	25
	Insert after	Part 4:	26
	Part 5	Provisions consequent on enactment of	27
		University Legislation Amendment Act	28
		2004	29
	26 Defin	nitions	30
		In this Part:	31
		<i>amending Act</i> means the University Legislation Amendment Act 2004.	32 33
		<i>former section 12</i> means section 12 as in force immediately before its substitution by the amending Act.	34 35

Amendment of Univers	ty of Western S	ydney Act 1997 No 116	Schedule 9
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		Act.	section 12 means section 12 as substituted by the amending	1 2
		relev	<i>vant day</i> means the date of assent to the amending Act.	3
27	Gene	ral		4
			provisions of this Part are subject to any regulations made r clause 1.	5 6
28	Cons	titutio	on of Board	7
	(1)	Subj	ect to this Act, on the relevant day:	8
		(a)	a person holding office under former section 12 (2) ceases to hold that office, and	9 10
		(b)	a person holding office under former section 12 (4) or (6) is taken to be appointed as a member under new section 12 (1) (b) or (c), respectively, for the balance of the person's term of office, and	11 12 13 14
		(c)	a person holding office under former section 12 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 12 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office.	15 16 17 18
	(2)	the N	An a soon as is reasonably practicable after, the relevant day, An inister must appoint the balance of the members required to pointed under new section 12 (1) (b).	19 20 21
	(3)	steps cons	Board is to make all necessary by-laws and take all necessary s to ensure, as far as possible, that the Board is duly tituted under new section 12 as soon as is reasonably ticable after the relevant day.	22 23 24 25
	(4)	(3), 1	the purposes of making the by-laws referred to in subclause the Board must be constituted so as to include all of the abers required to be appointed under new section 12 (1) (b).	26 27 28
	(5)	The lis co	Board is taken to be properly constituted until such time as it nstituted in accordance with new section 12.	29 30
	(6)	A ca Boar follo	sual vacancy occurring in the office of a member before the rd is duly constituted under new section 12 is to be filled as ws:	31 32 33
		(a)	if the vacancy occurs in the office of a member appointed under new section 12 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	34 35 36

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

(b) if the vacancy occurs in the office of a member appointed under new section 12 (1) (c), the Board is to appoint a person whom the Board considers appropriate, 1

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- (c) if the vacancy occurs in the office of a member elected under new section 12 (1) (d) or (e), the Board is to appoint a person qualified to hold that office,
- (d) if the vacancy occurs in the office of a member elected under new section 12 (1) (f) or (g), the Board is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Board,
- (e) if the vacancy occurs in the office of a member elected under new section 12 (1) (h), the Board is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.
- (7) Subject to this Act, a member appointed under subclause (6) holds office from the time that person is appointed under that subclause until the expiry of the term of that member's predecessor.
- (8) Subject to this Act, if, on the expiry:
 - (a) of a member's term of office that is continued under subclause (1) (b) or (c), or
 - (b) in the case of a member appointed under subclause (6), of the term of office of the member's predecessor,

the by-laws necessary to enable a person to be duly appointed or elected (as the case may be) to that office under new section 12 are not yet in force, the member may continue to hold that office until such time as a person is so duly appointed or elected.

- (9) For the purposes of subclause (1), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.
- (10) A person who ceases to hold office under subclause (1) (a):
 - (a) is not entitled to any remuneration or compensation because of loss of that office, and
 - (b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.

Amendment of University of Western Sydney Act 1997 No 116	Schedule 9
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29	Existing exemptions from section 38	1
	An exemption granted by the Minister under section 38 (3) (as in force immediately before its amendment by the amending Act) is taken to be an exemption by resolution of the Board under that subsection as so amended.	2 3 4 5
30	Application of section 32G	6
	Section 32G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	7 8 9
31	Continuation of Board	10
	No amendment made by the amending Act affects the continuity of the Board.	11 12

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(Section 3)

1 2

3

[1]	Sect	ion 3 I	Definit	tions		4
	Inser	t after	sectio	n 3 (3)	<u>.</u>	5
		(4)	Note	s inclu	ded in this Act do not form part of this Act.	6
[2]	Secti	ion 9				7
	Omit	the se	ection.	Insert	instead:	8
	9	Cons	stitutio	on of C	Council	9
		(1)	The	Counc	il is to consist of:	10
			(a)	3 off	icial members, being:	11
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
			(b)		ernal persons appointed by the Minister from, as far acticable, the following categories:	20 21
				(i)	persons experienced in the field of education or the arts,	22 23
				(ii)	persons experienced in technology, industry, commerce or industrial relations,	24 25
				(iii)	persons who are practising, or have practised, a profession,	26 27
				(iv)	persons associated with Illawarra and the South Coast, and	28 29
			(c)	one presc	or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	30 31
			(d)	2 per	rsons:	32
				(i)	who are members of the academic staff of the University, and	33 34
				(ii)	who have such qualifications as may be prescribed by the by-laws, and	35 36

(2)

(3)

(4)

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	(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	1 2 3	
(e)	one p	person:	4	
	(i)	who is a member of the non-academic staff of the University, and	5 6	
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	7 8	
	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	9 10 11	
(f)	one p	person:	12	
	(i)	who is a student of the University but who is not a member of the academic or non-academic staff of the University, and	13 14 15	
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	16 17	
	(iii)	who is elected by students of the University in the manner prescribed by the by-laws, and	18 19	
(g)		or more external persons (being such number as is cribed by the by-laws):	20 21	
	(i)	who are graduates of the University, and	22	
	(ii)	who have such qualifications as are prescribed by the by-laws, and	23 24	
	(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	25 26 27	
purp num	oses o ber of	vs may not prescribe a number of members for the f subsection (1) (c) or (g) that when added to the other members to be appointed or elected to the bull exceed 22.	28 29 30 31	
		appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	32 33	
Parli	The Minister may appoint a person who is a member of the Parliament of New South Wales under subsection (1) (b) but only if the person is nominated by the Council for appointment.			
	No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b).			

Schedule 10	Amendment of University of Wollongong Act 1989 No 127
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	(5)	Of the members of the Council:	1
	(3)	 (a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and 	2 3 4 5
		(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	6 7 8
	(6)	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	9 10 11 12
	(7)	The majority of members of the Council must be external persons.	13 14
	(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	15 16
	(9)	Schedule 1 has effect in relation to the members and procedure of the Council.	17 18
	(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	19 20 21 22
[3]	Section 16	Functions of Council	23
	Insert after	section 16 (1A):	24
	(1B)	Without limiting the functions of the Council under subsection (1A), the Council is, in controlling and managing the affairs and concerns of the University:	25 26 27
		(a) to monitor the performance of the Vice-Chancellor, and	28
		(b) to oversee the University's performance, and	29
		(c) to oversee the academic activities of the University, and	30
		(d) to approve the University's mission, strategic direction, annual budget and business plan, and	31 32
		(e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	33 34 35 36 37 38

Amendment of University of Wollongong Act 1989 No 127

	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	1 2 3
	(g)	to approve significant University commercial activities (within the meaning of section 21A), and	4 5
	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	9 10 11 12
	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
	(k)	to adopt a statement of its primary responsibilities, and	16
	(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
[4]	Section 16, note		20
	Insert at the end of	f the section:	21
	makin Coune risk m	The Annual Reports (Statutory Bodies) Act 1984 regulates the g of annual reports to Parliament by the Council and requires the cil to report on the University's operations (including in relation to anagement and insurance arrangements) and a range of financial ther matters.	22 23 24 25 26
[5]	Section 16A Con	trolled entities	27
	Omit "This section	n does not itself confer" from section 16A (4).	28
	Insert instead "No	thing in the preceding subsections confers".	29
[6]	Section 16A (5)		30
	Omit "This section	n does not affect".	31
	Insert instead "No	thing in the preceding subsections affects".	32

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[7]	Sect	ion 16	A (5A)			1
	Inser	t after	section	16A (5):	2
		(5A)	The C	Council	l is, as far as is reasonably practicable, to ensure:	3
			(a)	that th	ne governing bodies of controlled entities:	4
				(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	5 6
				(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	7 8 9
				(iii)	adopt and evaluate their own governance principles, and	10 11
				(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	12 13 14
			(b)		a protocol is established regarding reporting by ning bodies of controlled entities to the Council.	15 16
[8]	Part	4A				17
	Insert after Part 4: Part 4A Duties of Council members					
	21F Duties of Council members					
			The n 2A.	nembe	rs of the Council have the duties set out in Schedule	21 22
	21G	Rem	oval fr	om off	ice for breach of duty	23
		(1)			l may remove a member of the Council from office f a duty set out in Schedule 2A.	24 25
		(2)	Coun memb	cil of v	I from office may be effected only at a meeting of the which notice (including notice of the motion that the neerned be removed from office for breach of duty) ven.	26 27 28 29
		(3)	remov	val is s	l from office may be effected only if the motion for upported by at least a two-thirds majority of the total nembers for the time being of the Council.	30 31 32
		(4)	unles	s the	for removal must not be put to the vote of the meeting member concerned has been given a reasonable to reply to the motion at the meeting, either orally or	33 34 35

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		(5)	atten moti	e member to whom the motion for removal refers does not d the meeting, a reasonable opportunity to reply to the on is taken to have been given if notice of the meeting has duly given.	1 2 3 4
		(6)		ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	5 6
[9]	Sect	ion 28	By-la	ws	7
	Omit	:"(othe	er than	the parliamentary members)" from section 28 (1) (b).	8
[10]	Sect	ion 29	Rules	5	9
	Omit claus	: "9 (5) ses 1 (d), 10 (2 l) and	2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and (e)" from section 29 (1).	10 11
	Inser 28 (1	t instea) (b) a	ad "9 (nd (k)	(1) (c)–(g) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and and clauses 1 (1) (c) and (d)".	12 13
[11]	Sche	dule 1	Provi	isions relating to members and procedure of the Council	14
	Omit	clause	es 1 an	d 2. Insert instead:	15
	1	Term	n of of	fice	16
		(1)	Subject to this Act, a member of the Council holds office as follows:		
			(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	19 20
			(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	21 22 23
			(c)	in the case of an elected member referred to in section 9 (1) (d), (e) or (f), for such term (not exceeding 3 years) as may be prescribed by the by-laws,	24 25 26
			(d)	in the case of a member referred to in section 9 (1) (g), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	27 28 29 30 31
		(2)		need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	32 33
			(a)	by the Council, when making the by-laws required under this clause, and	34 35
			(b)	by the Minister and the Council, when appointing members to the Council.	36 37

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	(3)	cons	rson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Council otherwise ves in relation to the person).	1 2 3			
2							
		The office of a member of the Council becomes vacant if the member:					
		(a)	dies, or	7			
		(b)	declines to act, or	8			
		(c)	resigns the office by writing under his or her hand addressed:	9 10			
			(i) in the case of a member appointed by the Minister, to the Minister, or	11 12			
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	13 14			
			(iii) in the case of an elected member, to the Vice-Chancellor, or	15 16			
		(d)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her estate for their benefit, or	17 18 19 20			
		(e)	becomes a mentally incapacitated person, or	21			
		(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	22 23 24 25 26			
		(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	27 28 29			
		(h)	is removed from office by the Council pursuant to section 21G, or	30 31			
		(i)	is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Council for his or her absence, or	32 33 34 35 36			
		(j)	in the case of an elected member, or a member appointed under section 9 (1) (g), ceases to be qualified for election or appointment, or	37 38 39			

		(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	1 2			
		(1)	in the case of a member appointed by the Council, is removed from office by the Council.	3 4			
[12]	Sch	edule 1, claus	se 3 (2)	5			
	Omi	t "(otherwise	than to fill the office of a parliamentary member)".	6			
[13]	Sch	edule 2A		7			
	Inser	t after Schedu	ule 2:	8			
	Scl	nedule 2A	A Duties of Council members	g			
			(Section 21F)	10			
	1	Duty to act	in best interests of University	11			
		A me	ember of the Council must carry out his or her functions:	12			
		(a)	in good faith in the best interests of the University as a whole, and	13 14			
		(b)	for a proper purpose.	15			
	2	Duty to exercise care and diligence					
			ember of the Council must act honestly and exercise a mable degree of care and diligence in carrying out his or her ions.	17 18 19			
	3	Duty not to	o improperly use position	20			
			ember of the Council must not make improper use of his or osition:	21 22			
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24			
		(b)	to cause detriment to the University.	25			
	4	Duty not to	o improperly use information	26			
			ember of the Council must not make improper use of mation acquired because of his or her position:	27 28			
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	29 30			
		(b)	to cause detriment to the University.	31			

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5	Disc	losure of material interests by Council members	1
	(1)	If:	2
		 (a) a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and 	3 4 5
		(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	6 7 8
		the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.	9 10 11
	(2)	A disclosure by a member of the Council at a meeting of the Council that the member:	12 13
		(a) is a member, or is in the employment, of a specified company or other body, or	14 15
		(b) is a partner, or is in the employment, of a specified person, or	16 17
		(c) has some other specified interest relating to a specified company or other body or to a specified person,	18 19
		is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).	20 21 22 23
	(3)	Particulars of any disclosure made under this clause must be recorded by the Council in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of a reasonable fee determined by the Council.	24 25 26 27 28
	(4)	After a member of the Council has disclosed the nature of an interest in any matter, the member must not, unless the Council otherwise determines:	29 30 31
		(a) be present during any deliberation of the Council with respect to the matter, or	32 33
		(b) take part in any decision of the Council with respect to the matter.	34 35
	(5)	For the purpose of the making of a determination by the Council under subclause (4), a member of the Council who has a material interest in a matter to which the disclosure relates must not:	36 37 38
		(a) be present during any deliberation of the Council for the purpose of making the determination, or	39 40

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Schedule 10

			(b)		part in mination.		making	by	the	Cour	ncil	of	the	1 2
		(6)	A contravention of this clause does not invalidate any decision of the Council.						3 4					
	(7) This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on any question relating to, the person's removal from office by the Council pursuant to section 21G.									5 6 7 8				
		(8)	This clause applies to a member of a committee of the Council and the committee in the same way as it applies to a member of the Council and the Council.						9 10 11					
		(9) For the purposes of this clause, a member has a material interest in a matter if a determination of the Council in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.							12 13 14 15					
	(10) In this clause:							16						
		<i>associate</i> of a member means any of the following:						17						
			(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,					18 19						
			(b)	busin	less partr	ner of	partner, p r friend relationsl	of a	pers	on ref	ferre	d to) in	20 21 22
			(c)	other	than that	perso	o is know on's conno reputation	ection						23 24 25
[14]	Sche	dule 3	Savin	ias an	d transit	ional	provisio	าร						26
	Schedule 3 Savings and transitional provisions Insert before clause 1:									27				
	1A	Savin	vings or transitional regulations						28					
		(1)	The C savin	Govern	nor may r ransitiona	nake	regulation are consec							29 30 31
			Unive	ersity l	Legislatio	n Am	endment 1	4 <i>ct</i> 2(004					32
		(2)					f the regul the Act co						fect	33 34

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		(3)		ch any such provision takes effect from a date he date of its publication in the Gazette, the perate so as:	1 2 3			
			the State or a	manner prejudicial to any person (other than an authority of the State), the rights of that ag before the date of its publication, or	4 5 6			
			an authority of	bilities on any person (other than the State or of the State) in respect of anything done or done before the date of its publication.	7 8 9			
[15]	Sche	edule 3	clause 13		10			
	Inser	t after	ause 12:		11			
	13		ions consequent c Iment Act 2004	on enactment of University Legislation	12 13			
		(1)	In this clause:		14			
			<i>amending Act</i> means the <i>University Legislation Amendment Act</i> 2004.					
			<i>former section 9</i> mets substitution by th	eans section 9 as in force immediately before e amending Act.	17 18			
			<i>new section 9</i> means section 9 as substituted by the amending Act.					
			<i>relevant day</i> means	the date of assent to the amending Act.	21			
		(2)	Subject to this Act, on the relevant day:					
			(a) a person hold to hold that of	ing office under former section 9 (2) ceases ffice, and	23 24			
			taken to be ap	ing office under former section 9 (4) or (6) is pointed as a member under new section 9 (1) sectively, for the balance of the person's term	25 26 27 28			
			(c) or (d) is t section $9(1)($	ing office under former section 9 (5) (a), (b), aken to be elected as a member under new d), (e), (f) or (g), respectively, for the balance s term of office.	29 30 31 32			
		(3)	he Minister must ap	reasonably practicable after, the relevant day, point the balance of the members required to new section $9(1)$ (b).	33 34 35			
		(4)	necessary steps to e	make all necessary by-laws and take all nsure, as far as possible, that the Council is der new section 9 as soon as is reasonably relevant day.	36 37 38 39			

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(5)	For the purposes of making the by-laws referred to in subclause (4), the Council must be constituted so as to include all of the members required to be appointed under new section 9 (1) (b).						
(6)	The Council is taken to be properly constituted until such time as it is constituted in accordance with new section 9.						
(7)		sual vacancy occurring in the office of a member before the acil is duly constituted under new section 9 is to be filled as ws:	6 7 8				
	(a)	(a) if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,					
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	12 13 14				
	(c)	if the vacancy occurs in the office of a member elected under new section $9(1)(d)$ or (e), the Council is to appoint a person qualified to hold that office,	15 16 17				
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	18 19 20 21 22				
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (g), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	23 24 25 26				
(8)	holds subcl	ect to this Act, a member appointed under subclause (7) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	27 28 29 30				
(9)	Subje	ect to this Act, if, on the expiry:	31				
	(a)	of a member's term of office that is continued under subclause (2) (b) or (c), or	32 33				
	(b)	in the case of a member appointed under subclause (7), of the term of office of the member's predecessor,	34 35				
	the by-laws necessary to enable a person to be duly appointed or elected (as the case may be) to that office under new section 9 are not yet in force, the member may continue to hold that office until such time as a person is so duly appointed or elected.36 37 38 38 39						

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(10)	For the purposes of subclause (2), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
(11)	A person who ceases to hold office under subclause (2) (a):	6
	(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8
	(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10
(12)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	11 12 13
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	14 15
(14)	Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	16 17 18
(15)	No amendment made by the amending Act affects the continuity of the Council.	19 20
(16)	The provisions of this clause are subject to any regulations made under clause 1A.	21 22