

CONCURRENCE COPY

UNIVERSITY AND UNIVERSITY COLLEGES (AMENDMENT) BILL, 1984

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

- University of New England (Amendment) Bill, 1984;
- Macquarie University (Amendment) Bill, 1984;
- University of Newcastle (Amendment) Bill, 1984;
- University of New South Wales (Amendment) Bill, 1984;
- University of Wollongong (Amendment) Bill, 1984.

The objects of this Bill are—

- (a) to specify the investments in which the funds of the University of Sydney may be invested (Schedule 1 (2) and (3));
 - (b) to enable the Senate of the University to establish and manage investment pools and to provide for the distribution of the income of those pools (Schedule 1 (2) and (3));
 - (c) to validate certain investments made by the University (Schedule 2);
 - (d) to validate the establishment and management of investment pools by the University (Schedule 2);
 - (e) to require investment pools referred to in paragraph (d) to be brought into conformity with the provisions of the proposed Act (Schedule 2); and
 - (f) to make other provisions of a minor, consequential or ancillary nature.
-

**UNIVERSITY AND UNIVERSITY COLLEGES (AMENDMENT)
BILL, 1984**

No. , 1984.

A BILL FOR

An Act to amend the University and University Colleges Act, 1900, to make further provision with respect to the investment of money by the University of Sydney, to enable the establishment and management of investment pools by the University and to validate certain matters.

[MR BEDFORD—28 *February*, 1984.]

See also University of New England (Amendment) Bill, 1984; Macquarie University (Amendment) Bill, 1984; University of Newcastle (Amendment) Bill, 1984; University of New South Wales (Amendment) Bill, 1984; University of Wollongong (Amendment) Bill, 1984.

University and University Colleges (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "University and University Colleges (Amendment) Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules:—

15 SCHEDULE 1.—AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT, 1900.

SCHEDULE 2.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 22, 1900.

20 4. The University and University Colleges Act, 1900, is amended in the manner set forth in Schedule 1.

Savings, transitional and other provisions.

5. Schedule 2 has effect.

University and University Colleges (Amendment).

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT, 1900.

(1) Section 1—

5 From the matter relating to Part IV, omit “24”, insert instead “23A”.

(2) Section 23A—

Before section 24, insert:—

Interpretation.

23A. In this Part—

10 “class A funds” means—

(a) private gifts, other than private gifts which may be applied without restriction or limitation—

(i) for any of the purposes of the University; or

15 (ii) for any of the purposes of any faculty, department, school or foundation within the University;

(b) grants; and

(c) student tuition fees;

20 “class B funds” means moneys held by the University which are not class A funds;

“grant” means money granted to the University by or on behalf of the Government of—

(a) the State of New South Wales; or

(b) the Commonwealth,

25 or any part of that money;

“investment pool” means investment pool established by the Senate under section 27D (1);

“pooled item” means—

(a) a private gift;

30 (b) a grant;

(c) student tuition fees;

(d) class B funds;

University and University Colleges (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT, 1900
—*continued.*

- 5 (e) securities; or
(f) real property,
forming part of an investment pool;
- “private gift” means—
- 10 (a) money, not being a grant, given to the University;
(b) money obtained from the conversion of property
given to the University; and
(c) money obtained from the investment or use of
property given to the University;
- “securities” means debentures, stocks, shares, bonds and notes.

(3) Sections 27A–27F—

- 15 Before section 28, insert:—

Trust instruments apply notwithstanding ss. 27B–27E.

- 27A. The terms of—
- 20 (a) in the case of a private gift—any instrument creating a
trust with respect to that private gift;
(b) in the case of a grant—the instrument of grant; and
(c) in the case of property, other than money, given to the
University—any instrument creating a trust with respect to
that property,

shall have effect notwithstanding sections 27B, 27C, 27D and 27E.

25 **Retention of property in specie.**

27B. Where property, other than money, is given to the University, the Senate may retain that property in the form in which it is given to the University.

University and University Colleges (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT, 1900
—*continued.***Investment of money.**

- 5 27c. (1) The Senate may invest any class A funds held by the
University in accordance with and subject to the Trustee Act, 1925.
- (2) The Senate may invest any class B funds held by the
University—
- (a) in accordance with and subject to the Trustee Act, 1925;
- 10 (b) in the same manner as the State Superannuation Board
constituted by the Superannuation Act, 1916, may invest
the State Superannuation Fund established under that Act
or any part of that Fund—
- (i) under section 5 (1) (a), (b), (b1) and (c1) of
15 that Act (except that section 5 (1) (c1) of that
Act shall not authorise or enable a loan **other than**
a loan to a building society specified in Schedule 2
to the Permanent Building Societies Act, 1967);
- (ii) under section 5A of that Act (except that section
20 5A (8) (d) of that Act shall not apply to any
investment made by the Senate);
- (iii) with the approval of the Minister and the concur-
25 rence of the Treasurer, under section 5B of that
Act (except that section 5B (1) (a) and (7) of
that Act shall not apply to any investment made
by the Senate) and, subject to subsection (3), for
the purposes of this section, a reference in section
5B (4) or (5) of that Act to the Board shall be
30 read and construed as if it were a reference to the
Senate; or
- (iv) with the approval of the Minister and the concur-
35 rence of the Treasurer, under section 5C of that
Act, notwithstanding section 5C (3) of that Act
(except that section 5C (4) (j) of that Act, to the
extent to which it authorises investment other than

University and University Colleges (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT, 1900
—*continued.*

5 by way of subscription of share capital in, deposit with, or loan of money to, a building society specified in Schedule 2 to the Permanent Building Societies Act, 1967, shall not apply to any investment made by the Senate); or

(c) in any prescribed manner.

10 (3) A certificate under section 5B (4) of the Superannuation Act, 1916, as applied by subsection (2), shall be furnished to the Senate by the Valuer-General upon payment of such fee as is determined by the Valuer-General.

15 (4) The Senate may invest any class A funds or class B funds in a form of investment approved by the Minister, with the concurrence of the Treasurer, where the Minister is of the opinion that the University would suffer loss or hardship or be otherwise disadvantaged if the funds were to be invested in accordance with the other provisions of this section.

20 Investment pools.

27D. (1) Subject to subsection (2), the Senate may establish and maintain one or more investment pools for the collective investment of property held by the University.

(2) The Senate may from time to time—

25 (a) bring into or withdraw from an investment pool the whole or any part of any class A funds or class B funds held by the University; or

(b) bring into an investment pool—

30 (i) securities, other than securities in respect of which the donor has, in an instrument creating a trust in respect of those securities, specified that the income from those securities shall be applied for a purpose other than the general purposes of the University; or

University and University Colleges (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT, 1900
—*continued.*

- 5 (ii) real property, other than real property in respect
of which the donor has, in an instrument creating a
trust in respect of that real property, specified that
the income from that real property shall be applied
for a purpose other than the general purposes of the
University,
10 or withdraw money to the value attributed equitably to
those securities or that real property by the Senate at the
date of withdrawal.

- 15 (3) Notwithstanding subsections (1) and (2), the Senate
shall not bring into or retain in any investment pool the whole or
any part of any class A funds if the investments in which the capital
of the investment pool is invested are not investments made in accord-
ance with and subject to the Trustee Act, 1925.

Distribution of income of investment pools.

- 20 27E. (1) The Senate shall, at least once a year, distribute the
income of an investment pool.

(2) On the distribution of the income of an investment pool
under subsection (1), the Senate shall, in respect of—

- 25 (a) a pooled item being a private gift where the donor of that
private gift has, in an instrument creating a trust in respect
of that private gift—
(i) specified that the income from the investment of
that private gift shall be applied for a purpose other
than the general purposes of the University; or
30 (ii) specified that that private gift shall be applied for
a purpose other than the general purposes of the
University and that private gift is insufficient,
without the addition of the income from the invest-
ment of that private gift, to achieve that purpose;
and

University and University Colleges (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT, 1900
—*continued.*

5 (b) any other pooled item in respect of which the Senate is otherwise required to do so,

10 credit the income of that investment pool to the account kept by it in respect of that private gift or other pooled item proportionately according to the value attributed equitably to that private gift or other pooled item by the Senate at the date of distribution and the period for which that private gift has formed part of that investment pool since the date of the last preceding distribution of the income of that investment pool.

15 (3) Where the Senate distributes the income of an investment pool under subsection (1), it may, in respect of a pooled item, other than a pooled item referred to in subsection (2) (a) or (b), credit the income of that investment pool to any account kept by it.

Nature of private gift, etc., not affected by pooling.

20 27F. (1) The inclusion in an investment pool of—

- 25 (a) a pooled item being a private gift, a grant, student tuition fees or class B funds does not affect the identity of that pooled item as a private gift, a grant, student tuition fees or class B funds, as the case may be; and
- (b) a pooled item does not affect any trust to which that pooled item was subject immediately before its inclusion in that investment pool.

(2) On the withdrawal from an investment pool of—

- 30 (a) a pooled item being a private gift, a grant, student tuition fees or class B funds, that pooled item shall continue to be subject to any trust to which it was subject immediately before its inclusion in that investment pool; and

University and University Colleges (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE UNIVERSITY AND UNIVERSITY COLLEGES ACT,
1900—*continued.*

- 5 (b) money to the value attributed to any securities or real
property by the Senate under section 27D (2) (b), that
money shall be subject to any trust to which those securities
were subject immediately before their inclusion in that
investment pool or that real property was subject immedi-
ately before its inclusion in that investment pool, as the
10 case may be.

SCHEDULE 2.

(Sec. 5.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

- 15 1. In this Schedule, "appointed day" means the day appointed and notified under
section 2 (2).

Validation—investments.

- 20 2. The provisions of this Act shall, in relation to an investment made, before the
appointed day, by the Senate of the University of Sydney or otherwise by or on behalf
of that University, be deemed to have come into effect in relation to the investment at
the time the investment was made.

Validation—investment pools.

- 25 3. (1) The pooling or collective investment of any moneys, securities or real
property by the University of Sydney before the appointed day, otherwise than in
accordance with the terms of any instrument creating a trust with respect to those
moneys, those securities or that real property, is hereby validated.

- 30 (2) A pool for the collective investment of any moneys, securities or real
property established by the University of Sydney and in existence immediately before
the appointed day shall, on and from that day, be deemed, subject to the University
and University Colleges Act, 1900, as amended by this Act, to be an investment pool
lawfully constituted by the Senate of that University under section 27D (1) of that
Act, as so amended.

University and University Colleges (Amendment).

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Reconstitution of investment pools.**

5 4. (1) In this clause, "grant" and "private gift" have the meanings attributed to them respectively in section 23A of the University and University Colleges Act, 1900, as amended by this Act.

10 (2) Where a pool referred to in clause 3 (2) contains the whole or any part of a private gift, other than a private gift which may be applied without restriction or limitation for any of the purposes of the University of Sydney, or the whole or any part of a grant and the whole or any part of the capital of that pool is invested in investments which are not made in accordance with and subject to the Trustee Act, 1925, then, except to the extent to which the investments in which the capital of that pool is invested are authorised or permitted under the terms of—

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

(b) in the case of that grant—the instrument of grant,

the Senate of the University of Sydney shall, as soon as practicable after the appointed day, withdraw the whole or such part of that private gift or that grant as forms part of the capital of that pool from that pool.

20 (3) Where a pool referred to in clause 3 (2) contains any student tuition fees and the whole or any part of the capital of that pool is invested in investments which are not made in accordance with and subject to the Trustee Act, 1925, the Senate of the University of Sydney shall, as soon as practicable after the appointed day, withdraw those student tuition fees from that pool.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984