

HIGHER EDUCATION (AMALGAMATION) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

University and University Colleges (Amendment) Bill 1989;
University of New England Bill 1989;
University of Newcastle Bill 1989; and
University of Technology, Sydney, Bill 1989.

The objects of this Bill are—

- (a) to provide for the amalgamation with the University of Sydney of—
 - (i) the Sydney branch of the Conservatorium of Music;
 - (ii) the Cumberland College of Health Sciences;
 - (iii) the Sydney College of the Arts;
 - (iv) the Sydney Institute of Education;
 - (v) the Institute of Nursing Studies; and
 - (vi) the Guild Centre;
- (b) to provide for the amalgamation with the University of New England of—
 - (i) the Armidale College of Advanced Education; and
 - (ii) the Northern Rivers College of Advanced Education;
- (c) to provide for the amalgamation with the University of Newcastle of—
 - (i) the Newcastle branch of the Conservatorium of Music; and
 - (ii) the Hunter Institute of Higher Education;
- (d) to provide for the amalgamation with the University of New South Wales of—
 - (i) the City Art Institute; and
 - (ii) the St George Institute of Education;
- (e) to provide for the amalgamation with the University of Technology, Sydney, of—
 - (i) the Kuring-gai College of Advanced Education; and

Higher Education (Amalgamation) 1989

- (ii) the Institute of Technical and Adult Teacher Education;
- (f) to provide for the amalgamation with Macquarie University of the Institute of Early Childhood Studies; and
- (g) to enact savings, transitional and other provisions as a consequence of the proposed amalgamations.

PART 1—PRELIMINARY

This Part contains provisions—

- (a) specifying the short title of the proposed Act (clause 1);
- (b) providing for the commencement of the proposed Act on a day or days to be appointed by proclamation (clause 2); and
- (c) defining certain expressions for the purposes of the proposed Act (clause 3).

PART 2—THE ARMIDALE COLLEGE OF ADVANCED EDUCATION

This Part contains a provision that abolishes the Armidale College of Advanced Education, dissolves its Council, provides for the transfer of its property, and of its rights to control certain land, to the University of New England and provides for the continuance of its by-laws (clause 4).

PART 3—THE CONSERVATORIUM OF MUSIC

This Part contains provisions—

- (a) defining certain expressions for the purposes of the proposed Part (clause 5);
- (b) abolishing the Conservatorium of Music and dissolving its Board of Governors (clause 6);
- (c) providing for the transfer of the property of the Sydney branch of the Conservatorium of Music, and of its rights to control certain land, to the University of Sydney (clause 7);
- (d) providing for the transfer of the property of the Newcastle branch of the Conservatorium of Music, and of its rights to control certain land, to the University of Newcastle (clause 8); and
- (e) repealing the New South Wales State Conservatorium of Music By-law (clause 9).

PART 4—THE CUMBERLAND COLLEGE OF HEALTH SCIENCES

This Part contains a provision that abolishes the Cumberland College of Health Sciences, dissolves its Council, provides for the transfer of its property, and of its rights to control certain land, to the University of Sydney and repeals the Cumberland College of Health Sciences By-law (clause 10).

PART 5—THE HUNTER INSTITUTE OF HIGHER EDUCATION

This Part contains a provision that abolishes the Hunter Institute of Higher Education, dissolves its Council, provides for the transfer of its property, and of its rights to control certain land, to the University of Newcastle and provides for the continuance of its by-laws (clause 11).

Higher Education (Amalgamation) 1989

PART 6—THE INSTITUTE OF THE ARTS

This Part contains provisions—

- (a) abolishing the Institute of the Arts and dissolving its Board of Governors (clause 12);
- (b) providing for the transfer of the property of the Institute of the Arts that relates to the Sydney College of the Arts, and of the rights of the Institute of the Arts to control certain land in relation to the College of the Arts, to the University of Sydney (clause 13);
- (c) providing for the transfer of the property of the Institute of the Arts that relates to the City Art Institute, and of the rights of the Institute of the Arts to control certain land in relation to the City Art Institute, to the University of New South Wales (clause 14); and
- (d) repealing the Institute of the Arts (Transferred Employees) Regulation 1987 (clause 15).

PART 7—THE KURING-GAI COLLEGE OF ADVANCED EDUCATION

This Part contains a provision that abolishes the Kuring-gai College of Advanced Education, dissolves its Council, provides for the transfer of its property, and of its rights to control certain land, to the University of Technology, Sydney, and provides for the continuance of its by-laws (clause 16).

PART 8—THE NORTHERN RIVERS COLLEGE OF ADVANCED EDUCATION

This Part contains a provision that abolishes the Northern Rivers College of Advanced Education, dissolves its Council, provides for the transfer of its property, and of its rights to control certain land, to the University of New England and provides for the continuance of its by-laws (clause 17).

PART 9—THE SYDNEY COLLEGE OF ADVANCED EDUCATION

This Part contains provisions—

- (a) abolishing the Sydney College of Advanced Education and dissolving its Council (clause 18);
- (b) providing for the transfer of the property of the College that relates to the Sydney Institute of Education, and of the College's rights to control certain land in relation to the Institute, to the University of Sydney (clause 19);
- (c) providing for the transfer of the property of the College that relates to the Institute of Nursing Studies, and of the College's rights to control certain land in relation to the Institute, to the University of Sydney (clause 20);
- (d) providing for the transfer of the property of the College that relates to the Guild Centre, and of the College's rights to control certain land in relation to the Guild Centre, to the University of Sydney (clause 21);
- (e) providing for the transfer of the property of the College that relates to the St George Institute of Education, and of the College's rights to control certain land in relation to the Institute, to the University of New South Wales (clause 22);
- (f) providing for the transfer of the property of the College that relates to the Institute of Early Childhood Studies, and of the College's rights to control certain land in relation to the Institute, to Macquarie University (clause 23);

Higher Education (Amalgamation) 1989

- (g) providing for the transfer of the property of the College that relates to the Institute of Technical and Adult Teacher Education, and of the College's rights to control certain land in relation to the Institute, to the University of Technology, Sydney (clause 24); and
- (h) repealing the Sydney College of Advanced Education By-law 1982 and the Sydney College of Advanced Education Regulation 1981 (clause 25).

PART 10—TRANSFER OF STAFF

This Part contains provisions—

- (a) defining certain expressions for the purposes of the proposed Part (clause 26);
- (b) transferring the officers of each institution to be abolished by the proposed Act to the relevant university on terms and conditions to be agreed upon between the institution and the university (clause 27);
- (c) providing that the terms and conditions to be agreed upon relating to the remuneration and duration of appointment of an officer are to be no less favourable than those currently applying to the officer (clause 28);
- (d) enabling such an officer to continue to contribute to the superannuation scheme currently applying to the officer (clause 29);
- (e) saving the accrued rights of such an officer to annual leave, long service leave and sick leave, but providing that, from the time of transfer, accruing leave is to be calculated at rates currently applying to university officers (clause 30);
- (f) preventing a transferred officer from claiming benefits of the same kind under the proposed Act and any other Act (clause 31);
- (g) allowing (for a period of 3 years) a transferred officer who was, before being transferred, a member of the Public Service with at least 5 years' service to apply for positions in the Public Service as if he or she were still such a member (clause 32);
- (h) transferring the temporary staff members of the institutions to be abolished by the proposed Act to the relevant university on the same terms and conditions as those currently applying to those members (clause 33);
- (i) providing that a fixed term contract between a person and such an institution shall be taken to be a contract with the relevant university (clause 34); and
- (j) stating that nothing in the proposed Part affects the operation of the Industrial Arbitration Act 1940 (clause 35).

PART 11—GENERAL

This Part contains provisions—

- (a) transferring to the relevant university the assets, rights, liabilities and obligations of each institution to be abolished by the proposed Act (clause 36);
- (b) allowing disputes relating to the transfer to the relevant university of property, assets, rights, liabilities and obligations of such an institution to be determined by the Minister (clause 37);
- (c) transferring the students of such an institution to the relevant university and providing for the continuation of their courses and the conferring of appropriate awards by that university (clause 38);
- (d) saving delegations made by the governing body of such an institution until revoked by the governing body of the relevant university (clause 39);

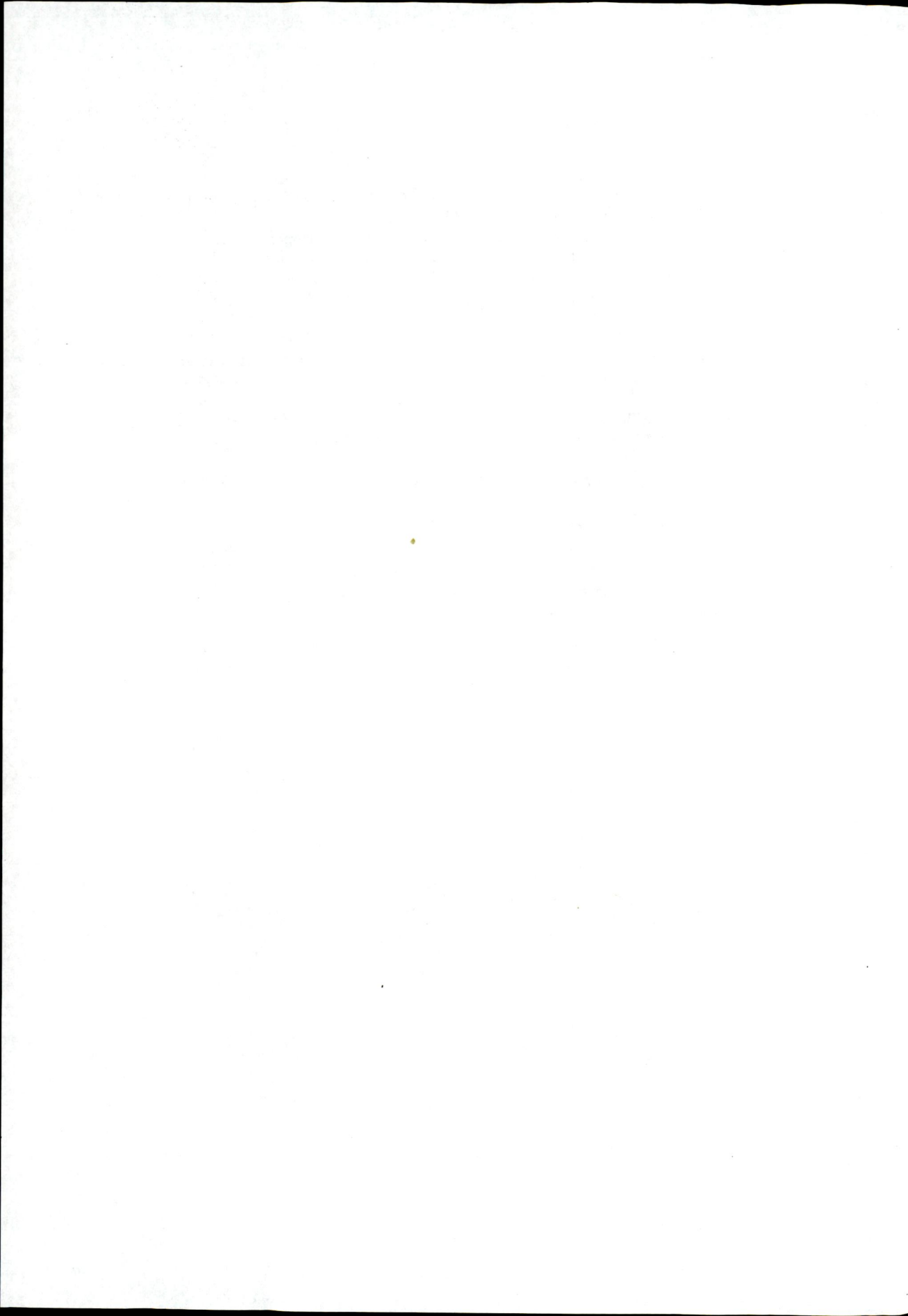
Higher Education (Amalgamation) 1989

- (e) exempting instruments executed for the purposes of dealing with property in accordance with the proposed Act from payment of stamp duty and other registration fees or charges (clause 40);
- (f) preserving the power of persons in whom certain property is vested to remove the control and management of the property from a university to which that control and management is to be transferred by the proposed Act or to vary the terms and conditions on which that control and management may be exercised by that university (clause 41);
- (g) saving existing investments of such an institution (clause 42);
- (h) providing for references to such an institution in any other Act or in any statutory instrument or other document to be read as references to the relevant university (clause 43);
- (i) enabling the Governor-in-Council to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act and its cognate Acts (clause 44);
- (j) repealing the Institute of the Arts Act 1987 and the New South Wales State Conservatorium of Music Act 1965 (clause 45); and
- (k) giving effect to Schedule 1 (clause 46).

SCHEDULE 1—AMENDMENTS

The Schedule contains consequential amendments to the following Acts:

- Public Authorities (Financial Arrangements) Act 1987;
 - Public Finance and Audit Act 1983.
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HIGHER EDUCATION (AMALGAMATION) BILL 1989

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2—THE ARMIDALE COLLEGE OF ADVANCED EDUCATION

4. The Armidale College of Advanced Education

PART 3—THE CONSERVATORIUM OF MUSIC

5. Definitions
6. Dissolution
7. Conservatorium of Music (Sydney Branch)
8. Conservatorium of Music (Newcastle Branch)
9. By-law

PART 4—THE CUMBERLAND COLLEGE OF HEALTH SCIENCES

10. The Cumberland College of Health Sciences

PART 5—THE HUNTER INSTITUTE OF HIGHER EDUCATION

11. The Hunter Institute of Higher Education

PART 6—THE INSTITUTE OF THE ARTS

12. Dissolution
13. The Sydney College of the Arts
14. The City Art Institute
15. Regulation

PART 7—THE KURING-GAI COLLEGE OF ADVANCED EDUCATION

16. The Kuring-gai College of Advanced Education

PART 8—THE NORTHERN RIVERS COLLEGE OF ADVANCED EDUCATION

17. The Northern Rivers College of Advanced Education

Higher Education (Amalgamation) 1989

PART 9—THE SYDNEY COLLEGE OF ADVANCED EDUCATION

18. Dissolution
19. The Sydney Institute of Education
20. The Institute of Nursing Studies
21. The Guild Centre
22. The St George Institute of Education
23. The Institute of Early Childhood Studies
24. The Institute of Technical and Adult Teacher Education
25. By-law etc.

PART 10—TRANSFER OF STAFF

26. Definitions
27. Transfer of staff generally
28. Remuneration and tenure
29. Superannuation
30. Annual leave, long service leave and sick leave
31. No entitlement to dual benefits
32. Public servants may re-apply for positions in the Public Service
33. Temporary staff
34. Fixed term contracts
35. Operation of Industrial Arbitration Act 1940 unaffected

PART 11—GENERAL

36. Transfer of assets etc.
37. Determination of certain questions
38. Students
39. Saving of delegations
40. Instruments exempt from stamp duty etc.
41. Control and management of property
42. Existing investments
43. Construction of certain references
44. Regulations
45. Repeals
46. Amendments

SCHEDULE 1—AMENDMENTS

HIGHER EDUCATION (AMALGAMATION) BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to provide for the amalgamation with various universities of various colleges of advanced education and other educational institutions.

See also University and University Colleges (Amendment) Bill 1989; University of New England Bill 1989; University of Newcastle Bill 1989; University of Technology, Sydney, Bill 1989.

The Legislature of New South Wales enacts:**PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Higher Education (Amalgamation) Act
5 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

- 10 3. (1) In this Schedule—

“Armidale CAE” means the Armidale College of Advanced Education established under the Colleges of Advanced Education Act 1975;

“City Art Institute” means such part of the Institute of the Arts as comprises the City Art Institute;

- 15 “Conservatorium of Music” means the New South Wales State Conservatorium of Music;

“Conservatorium of Music (Newcastle branch)” means such part of the Conservatorium of Music as is situated in Newcastle;

- 20 “Conservatorium of Music (Sydney branch)” means such part of the Conservatorium of Music as is situated in Sydney;

“corresponding institution” means—

- (a) the University of Sydney, in relation to—

- (i) the Conservatorium of Music (Sydney branch);
(ii) the Cumberland College of Health Sciences;
25 (iii) the Sydney College of the Arts;
(iv) the Sydney Institute of Education;
(v) the Institute of Nursing Studies; or
(vi) the Guild Centre;

- (b) the University of New England, in relation to—

- 30 (i) the Armidale CAE; or
(ii) the Northern Rivers CAE;

- (c) the University of Newcastle, in relation to—

- (i) the Conservatorium of Music (Newcastle branch); or
(ii) the Hunter Institute;

- 35 (d) the University of New South Wales, in relation to—

- (i) the City Art Institute; or
(ii) the St George Institute of Education;

Higher Education (Amalgamation) 1989

(e) the University of Technology, Sydney, in relation to—

(i) the Kuring-gai CAE; or

(ii) the Institute of Technical and Adult Teacher Education; and

5 (f) the Macquarie University, in relation to the Institute of Early Childhood Studies;

“Cumberland College of Health Sciences” means the Cumberland College of Health Sciences established under the Colleges of Advanced Education Act 1975;

“former institution” means—

10 (a) the Armidale CAE;

(b) the Conservatorium of Music (Sydney branch);

(c) the Conservatorium of Music (Newcastle branch);

(d) the Cumberland College of Health Sciences;

(e) the Hunter Institute;

15 (f) the Sydney College of the Arts;

(g) the City Art Institute;

(h) the Kuring-gai CAE;

(i) the Northern Rivers CAE;

(j) the Sydney Institute of Education;

20 (k) the Institute of Nursing Studies;

(l) the Guild Centre;

(m) the St George Institute of Education;

(n) the Institute of Early Childhood Studies; or

(o) the Institute of Technical and Adult Teacher Education;

25 “governing body”, in relation to a former institution, means the governing body of—

(a) the Armidale CAE;

(b) the Conservatorium of Music;

(c) the Cumberland College of Health Sciences;

30 (d) the Hunter Institute;

(e) the Institute of the Arts;

(f) the Kuring-gai CAE;

(g) the Northern Rivers CAE; or

(h) the Sydney CAE,

35 as the case requires;

“Guild Centre” means such part of the Sydney CAE as comprises the Guild Centre;

Higher Education (Amalgamation) 1989

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- “Hunter Institute” means the Hunter Institute of Higher Education established under the Colleges of Advanced Education Act 1975;
- “Institute of Early Childhood Studies” means such part of the Sydney CAE as comprises the Institute of Early Childhood Studies;
- 5 “Institute of Nursing Studies” means such part of the Sydney CAE as comprises the Institute of Nursing Studies;
- “Institute of Technical and Adult Teacher Education” means such part of the Sydney CAE as comprises the Institute of Technical and Adult Teacher Education;
- 10 “Institute of the Arts” means the New South Wales Institute of the Arts established by the Institute of the Arts Act 1987;
- “Kuring-gai CAE” means the Kuring-gai College of Advanced Education established under the Colleges of Advanced Education Act 1975;
- 15 “Northern Rivers CAE” means the Northern Rivers College of Advanced Education established under the Colleges of Advanced Education Act 1975;
- “relevant commencement” means—
- (a) in relation to the Armidale CAE—the commencement of section 4;
 - 20 (b) in relation to the Conservatorium of Music (Sydney branch)—the commencement of section 6;
 - (c) in relation to the Conservatorium of Music (Newcastle branch)—the commencement of section 8;
 - 25 (d) in relation to the Cumberland College of Health Sciences—the commencement of section 10;
 - (e) in relation to the Hunter Institute—the commencement of section 11;
 - (f) in relation to the Sydney College of the Arts—the commencement of section 13;
 - 30 (g) in relation to the City Art Institute—the commencement of section 14;
 - (h) in relation to the Kuring-gai CAE—the commencement of section 16;
 - 35 (i) in relation to the Northern Rivers CAE—the commencement of section 17;
 - (j) in relation to the Sydney Institute of Education—the commencement of section 19;
 - (k) in relation to the Institute of Nursing Studies—the commencement of section 20;
 - 40 (l) in relation to the Guild Centre—the commencement of section 21;

Higher Education (Amalgamation) 1989

- (m) in relation to the St George Institute of Education—the commencement of section 22;
 - (n) in relation to the Institute of Early Childhood Studies—the commencement of section 23; and
 - 5 (o) in relation to the Institute of Technical and Adult Teacher Education—the commencement of section 24;
- “St George Institute of Education” means such part of the Sydney CAE as comprises the St George Institute of Education;
- 10 “Sydney CAE” means the Sydney College of Advanced Education established under the Colleges of Advanced Education Act 1975;
- “Sydney College of the Arts” means such part of the Institute of the Arts as comprises the Sydney College of the Arts;
- “Sydney Institute of Education” means such part of the Sydney CAE as comprises the Sydney Institute of Education;
- 15 “University of New England, Armidale” means the network member of that name within the meaning of the University of New England Act 1989;
- 20 “University of New England, Northern Rivers” means the network member of that name within the meaning of the University of New England Act 1989.

(2) In this Act, a reference to a former institution includes, where the former institution forms part of the Conservatorium of Music, the Institute of the Arts or the Sydney CAE, a reference to whichever of those establishments the former institution forms part of.

25 PART 2—THE ARMIDALE COLLEGE OF ADVANCED EDUCATION

The Armidale College of Advanced Education

4. (1) The Armidale CAE is abolished and its Council is dissolved.
- (2) The property of the Armidale CAE is vested in the University of New England (subject to any trusts or conditions subject to which it was held
- 30 immediately before the commencement of this section) to be applied by the University for the purposes of the University of New England.
- (3) The University of New England has the control and management of land that was under the control and management of the Armidale CAE immediately before the commencement of this section.
- 35 (4) The Armidale College of Advanced Education By-law—
- (a) continues in force (in respect only of such part of the University of New England as comprises the institution that was, immediately before the commencement of this section, the Armidale CAE) as if it had been made by the Board of Governors of the University of
- 40 New England; and

(b) may be amended and revoked accordingly.

(5) The University of New England By-laws do not apply to that part of the University of New England referred to in subsection (4) while the By-law referred to in that subsection has effect.

5 **PART 3—THE CONSERVATORIUM OF MUSIC**

Definitions

5. In this Part—

(a) a reference to the property of the Conservatorium of Music is a reference to—

10 (i) property that is vested in the Board of Governors of the Conservatorium of Music; or

 (ii) property that is vested in the Crown and that is used exclusively for the purposes of the Conservatorium of Music; and

15 (b) a reference to land that is under the control and management of the Conservatorium of Music is a reference to—

 (i) land that is under the control and management of the Board of Governors of the Conservatorium of Music; or

20 (ii) land that is under the control and management of the Crown and that is used exclusively for the purposes of the Conservatorium of Music.

Dissolution

6. The Conservatorium of Music is abolished and its Board of Governors is dissolved.

Conservatorium of Music (Sydney Branch)

25 7. (1) The property of the Conservatorium of Music that relates to the Conservatorium of Music (Sydney branch) is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Sydney Conservatorium of Music
30 established under section 42 of the University and University Colleges Act 1900.

(2) The University of Sydney has the control and management of land that was under the control and management of the Conservatorium of Music in relation to the Conservatorium of Music (Sydney branch) immediately
35 before the commencement of this section.

Higher Education (Amalgamation) 1989

Conservatorium of Music (Newcastle branch)

8. (1) The property of the Conservatorium of Music that relates to the Conservatorium of Music (Newcastle branch) is vested in the University of Newcastle (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Newcastle has the control and management of land that was under the control and management of the Conservatorium of Music in relation to the Conservatorium of Music (Newcastle branch) immediately before the commencement of this section.

By-law

9. The New South Wales State Conservatorium of Music By-law is repealed.

PART 4—THE CUMBERLAND COLLEGE OF HEALTH SCIENCES

15 The Cumberland College of Health Sciences

10. (1) The Cumberland College of Health Sciences is abolished and its Council is dissolved.

(2) The property of the Cumberland College of Health Sciences is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Cumberland College of Health Sciences established under section 42 of the University and University Colleges Act 1900.

(3) The University of Sydney has the control and management of land that was under the control and management of the Cumberland College of Health Sciences immediately before the commencement of this section.

(4) The Cumberland College of Health Sciences By-law is repealed.

PART 5—THE HUNTER INSTITUTE OF HIGHER EDUCATION

The Hunter Institute of Higher Education

11. (1) The Hunter Institute is abolished and its Council is dissolved.

(2) The property of the Hunter Institute is vested in the University of Newcastle (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(3) The University of Newcastle has the control and management of land that was under the control and management of the Hunter Institute immediately before the commencement of this section.

(4) The Newcastle College of Advanced Education By-law—

- (a) continues in force (in respect only of such part of the University of Newcastle as comprises the institution that was, immediately before the commencement of this section, the Hunter Institute) as if it had been made by the Council of the University of Newcastle; and
- (b) may be amended and revoked accordingly.

(5) The University of Newcastle By-laws do not apply to that part of the University of Newcastle referred to in subsection (4) while the By-law referred to in that subsection has effect.

PART 6—THE INSTITUTE OF THE ARTS

Dissolution

12. The Institute of the Arts is abolished and its Board of Governors is dissolved.

The Sydney College of the Arts

13. (1) The property of the Institute of the Arts that relates to the Sydney College of the Arts is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Sydney College of the Arts established under section 42 of the University and University Colleges Act 1900.

(2) The University of Sydney has the control and management of land that was under the control and management of the Institute of the Arts in relation to the Sydney College of the Arts immediately before the commencement of this section.

25 The City Art Institute

14. (1) The property of the Institute of the Arts that relates to the City Art Institute is vested in the University of New South Wales (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of New South Wales has the control and management of land that was under the control and management of the Institute of the Arts in relation to the City Art Institute immediately before the commencement of this section.

35 Regulation

15. The Institute of the Arts (Transferred Employees) Regulation 1987 is repealed.

PART 7—THE KURING-GAI COLLEGE OF ADVANCED EDUCATION

The Kuring-gai College of Advanced Education

16. (1) The Kuring-gai CAE is abolished and its Council is dissolved.
- 5 (2) The property of the Kuring-gai CAE is vested in the University of Technology, Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.
- 10 (3) The University of Technology, Sydney, has the control and management of land that was under the control and management of the Kuring-gai CAE immediately before the commencement of this section.
- (4) The Kuring-gai College of Advanced Education By-law—
- 15 (a) continues in force (in respect only of such part of the University of Technology, Sydney, as comprises the institution that was, immediately before the commencement of this section, the Kuring-gai CAE) as if it had been made by the Council of the University of Technology, Sydney; and
- (b) may be amended and revoked accordingly.
- 20 (5) The University of Technology, Sydney, By-laws do not apply to that part of the University of Technology, Sydney, referred to in subsection (4) while the By-law referred to in that subsection has effect.

PART 8—THE NORTHERN RIVERS COLLEGE OF ADVANCED EDUCATION

25 The Northern Rivers College of Advanced Education

17. (1) The Northern Rivers CAE is abolished and its Council is dissolved.
- (2) The property of the Northern Rivers CAE is vested in the University of New England (subject to any trusts or conditions subject to which it was
- 30 held immediately before the commencement of this section) to be applied by the University for the purposes of the University of New England.
- (3) The University of New England has the control and management of land that was under the control and management of the Northern Rivers CAE immediately before the commencement of this section.
- 35 (4) The Northern Rivers College of Advanced Education By-law—
- (a) continues in force (in respect only of the University of New England, Northern Rivers) as if it had been made by the Board of Governors of the University of New England; and
- (b) may be amended and revoked accordingly.

Higher Education (Amalgamation) 1989

(5) The University of New England By-laws do not have effect in relation to the University of New England, Northern Rivers, while the By-law referred to in subsection (4) has effect.

PART 9—THE SYDNEY COLLEGE OF ADVANCED EDUCATION**5 Dissolution**

18. The Sydney CAE is abolished and its Council is dissolved.

The Sydney Institute of Education

19. (1) The property of the Sydney CAE that relates to the Sydney Institute of Education is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Sydney Institute of Education immediately before the commencement of this section.

The Institute of Nursing Studies

20. (1) The property of the Sydney CAE that relates to the Institute of Nursing Studies is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Nursing Studies immediately before the commencement of this section.

The Guild Centre

21. (1) The property of the Sydney CAE that relates to the Guild Centre is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Guild Centre immediately before the commencement of this section.

The St George Institute of Education

22. (1) The property of the Sydney CAE that relates to the St George Institute of Education is vested in the University of New South Wales (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of New South Wales has the control and management of land that was under the control and management of the Sydney CAE in relation to the St George Institute of Education immediately before the commencement of this section.

The Institute of Early Childhood Studies

23. (1) The property of the Sydney CAE that relates to the Institute of Early Childhood Studies is vested in the Macquarie University (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The Macquarie University has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Early Childhood Studies immediately before the commencement of this section.

The Institute of Technical and Adult Teacher Education

24. (1) The property of the Sydney CAE that relates to the Institute of Technical and Adult Teacher Education is vested in the University of Technology, Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Technology, Sydney, has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Technical and Adult Teacher Education immediately before the commencement of this section.

By-law etc.

25. The Sydney College of Advanced Education By-law 1982 and the Sydney College of Advanced Education Regulation 1981 are repealed.

35

PART 10—TRANSFER OF STAFF**Definitions**

26. In this Part—

Higher Education (Amalgamation) 1989

“officer”, in relation to a former institution, means a person who, immediately before the relevant commencement, held any salaried office or employment in the staff establishment of that institution (otherwise than as a temporary staff member or a staff member employed on a fixed term contract) and includes, in the case of the Conservatorium of Music, any member of staff of the Public Service who was, immediately before that commencement, engaged solely in connection with the Conservatorium of Music;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

“temporary staff member”, in relation to a former institution, means a person who, immediately before the relevant commencement, was employed in the staff establishment of that institution on terms and conditions that allowed for his or her services to be dispensed with at any time.

Transfer of staff generally

27. (1) Each officer of a former institution shall, on the relevant commencement, become an officer of the corresponding institution.

20 (2) Except as otherwise provided by this Part or the regulations, the terms and conditions on which an officer of a former institution becomes an officer of a corresponding institution shall be in accordance with such arrangements, if any, as are agreed upon (before the relevant commencement) between the governing body of the former institution and
25 the governing body of the corresponding institution.

Remuneration and tenure

28. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution shall become such an officer on terms and conditions as to remuneration, and duration of
30 appointment, no less favourable than those on which he or she was employed at the former institution immediately before the relevant commencement.

(2) Such part of the remuneration referred to in subsection (1) as is salary or wages is subject to any adjustment necessary to give effect to any
35 fluctuation in the applicable basic wage in force under Part 5 of the Industrial Arbitration Act 1940 until the salary is, or the wages are, lawfully varied.

Superannuation

29. (1) An officer of a former institution who, pursuant to this Part,
40 becomes an officer of the corresponding institution—

- (a) may continue to contribute to any superannuation scheme to which the person was a contributor immediately before becoming an officer of the corresponding institution; and
 - (b) is entitled to receive any payment, pension or gratuity accrued or accruing to the person under any such scheme,
- as if he or she had continued to be such a contributor during his or her service as an officer of the corresponding institution.

(2) Service by an officer of a former institution as an officer of the corresponding institution shall be taken to be service as an officer of the former institution for the purposes of any law under which the officer continues to contribute to any such scheme or by which an entitlement under any such scheme is conferred.

(3) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution shall be regarded as an officer or employee, and the corresponding institution shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this section.

(4) If a person would, but for this subsection, be entitled under subsection (1) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under any such scheme—

- (a) the person is not so entitled on the person's becoming a contributor to any other superannuation scheme; and
- (b) the provisions of subsection (3) cease to apply to or in respect of the person and the corresponding institution where the person becomes a contributor to any such other superannuation scheme.

(5) Subsection (4) does not prevent the payment to an officer of a former institution, on the officer's ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the officer if the officer had ceased, by reason of resignation, to be such a contributor.

30 Annual leave, long service leave and sick leave

30. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution retains any rights to—

- (a) annual leave;
- (b) leave in the nature of long service leave; and
- (c) sick leave,

accrued or accruing to the person as an officer of the former institution.

(2) A person's entitlement to any such leave shall be calculated—

- (a) for such part of any period during which that leave accrued or was accruing as occurred before the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the former institution, before that commencement; and

Higher Education (Amalgamation) 1989

- (b) for such part of that period as occurred after the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the corresponding institution, after that commencement.

5 No entitlement to dual benefits

31. An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution is not entitled to claim, both under this Act and any other Act, dual benefits of the same kind in respect of the same period of service.

10 Public servants may re-apply for positions in the Public Service

32. (1) An officer of a former institution who, immediately before the relevant commencement, was a public servant with at least 5 years' satisfactory service as such may, within the period of 3 years immediately following that commencement, apply for a position in the Public Service as if the officer were still a public servant.

(2) An officer of a former institution who applies for such a position, or who is appointed to or employed in such a position, shall, for the purposes of—

- (a) the Public Sector Management Act 1988;
- 20 (b) the Government and Related Employees Appeal Tribunal Act 1980; and
- (c) the Industrial Arbitration Act 1940,

be taken to be a public servant in relation to the application, appointment or employment.

- 25 (3) There is no right of appeal under the Government and Related Employees Appeal Tribunal Act 1980—

- (a) for a person against the filling of a position in the Public Service by an officer of a former institution; or
- 30 (b) for an officer of a former institution against the filling of a position in the Public Service by another person.

(4) For the purposes of this section—

- (a) service is not satisfactory if it is of a kind prescribed by the regulations for the purposes of this section; and
- 35 (b) a reference to a public servant is a reference to an officer employed within the Public Service.

Temporary staff

33. (1) Each temporary staff member of a former institution shall, on the relevant commencement, become a temporary staff member of the corresponding institution.

Higher Education (Amalgamation) 1989

(2) A temporary staff member of a former institution who, pursuant to this section, becomes a temporary staff member of the corresponding institution shall become such a staff member on the same terms and conditions (including conditions as to remuneration) as those on which he or she was employed at the former institution immediately before the relevant commencement.

(3) Such part of the remuneration referred to in subsection (2) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 5 of the Industrial Arbitration Act 1940 until the salary is, or the wages are, lawfully varied.

Fixed term contracts

34. A fixed term contract in force, immediately before the relevant commencement, between a person and a former institution (being a contract under which the person performed services for that institution)—

- (a) shall be taken, for the remainder of its term, to be a contract in the same terms, between the person and the corresponding institution, under which the corresponding institution assumes the rights and obligations of the former institution; and
- (b) may be arbitrated, terminated or renewed in any manner provided by the contract.

Operation of Industrial Arbitration Act 1940 unaffected

35. Nothing in this Part affects the operation of the Industrial Arbitration Act 1940.

PART 11—GENERAL

Transfer of assets etc.

36. (1) Subject to this Act, on and from the relevant commencement, any assets, rights, liabilities or obligations of a former institution become assets, rights, liabilities or obligations of the corresponding institution.
- (2) In this section, a reference to a former institution includes, in relation to the Conservatorium of Music, a reference to—
- (a) the Board of Governors of the Conservatorium of Music; and
 - (b) in relation to the assets, rights, liabilities or obligations of the Crown that relate exclusively to the Conservatorium of Music—the Crown.

Determination of certain questions

37. (1) Any question arising in connection with the operation of this Act—

Higher Education (Amalgamation) 1989

- (a) as to which institution any particular item of property belongs or relates to;
- (b) as to which land is under the control and management of any particular institution;
- 5 (c) as to which institution any assets, rights, liabilities or obligations belong or relate to; or
- (d) as to which institution the employment of any staff pertains to, shall be determined by the Minister.

(2) A certificate of the Minister as to a determination under this section
10 is, for any purpose, evidence of the matters contained in the certificate.

Students

38. (1) Each person who was, immediately before the relevant commencement, a student of a former institution enrolled in a course of study shall on that commencement (unless the student was a graduand in
15 that course) become a student of the corresponding institution and be enrolled in a course of study that is substantially the same as the course of study in which the student was enrolled at the former institution.

(2) The corresponding institution shall (for such period as is necessary for the purposes of this section and, in any case, until the end of the
20 academic year next following the relevant commencement) provide such courses of study as are necessary for the purposes of this section.

(3) If a student is enrolled in a course of study pursuant to this section, the corresponding institution shall, as far as it may practicably do so, give the student credit in that course for any subject or work completed by the
25 student in the course of study from which the student was transferred.

(4) Students so enrolled are entitled, on satisfactory completion of their courses, to appropriate awards conferred by the corresponding institution but may, if they so desire, instead obtain awards conferred in the name of the former institution at which they were previously enrolled.

30 (5) For the purposes of subsection (4), the seal of a former institution may be affixed to any document pursuant to a resolution of the governing body of the corresponding institution.

(6) The seal of a former institution shall, on and from the relevant commencement, be kept in the custody of such person or body as the
35 Minister may determine.

Saving of delegations

39. Any delegation made by the governing body of a former institution and in force immediately before the relevant commencement continues to have effect as if it were a delegation made by the governing body of the
40 corresponding institution, but may be revoked at any time by that governing body.

Instruments exempt from stamp duty etc.

40. Any instrument that is executed for the purposes of disposing of, or otherwise dealing with, property in accordance with this Act is exempt—

- (a) from payment of stamp duty under the Stamp Duties Act 1920; and
- 5 (b) from payment of any other fee or charge that would otherwise be payable under any other Act in respect of the registration of any such instrument.

Control and management of property

41. The transfer, by this Act, of the control and management of any
10 property from a former institution to the corresponding institution does not affect any power of the person or body by whom the control and management of that property has been conferred, or of any lawful successor of that person or body—

- (a) to remove the control and management of that property from the
15 corresponding institution; or
- (b) to vary the conditions subject to which the control and management of that property may be exercised by the corresponding institution, that could have been exercised by that person or body, or by that lawful successor, in respect of the former institution had this Act not been enacted.

20 Existing investments

42. Nothing in this Act affects the validity of any investment made by or on behalf of a former institution before the relevant commencement.

Construction of certain references

43. In any other Act or in any statutory instrument (including any
25 industrial award or industrial agreement) or other document, a reference to a former institution shall, on and from the relevant commencement, be read as a reference to the corresponding institution.

Regulations

44. (1) The Governor may make regulations containing provisions of a
30 savings or transitional nature consequent on the enactment of this Act and the following Acts:

- University and University Colleges (Amendment) Act 1989;
- University of New England Act 1989;
- University of Newcastle Act 1989;
- 35 University of Technology, Sydney, Act 1989.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

Higher Education (Amalgamation) 1989

(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—

- 5 (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
- (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.

10 Repeals

45. (1) The Institute of the Arts Act 1987 is repealed.

(2) The New South Wales State Conservatorium of Music Act 1965 is repealed.

Amendments

- 15 **46.** Each Act referred to in Schedule 1 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENTS

(Sec. 46)

Public Authorities (Financial Arrangements) Act 1987 No. 33—20 **Schedule 1 (Authorities)—**

From Schedule 1, omit:

New South Wales State Conservatorium of Music.
Northern Rivers College of Advanced Education.
Sydney College of Advanced Education.

25 **Public Finance and Audit Act 1983 No. 152—****Schedule 2 (Statutory Bodies)—**

From Schedule 2, omit:

- Board of Governors of the New South Wales State
Conservatorium of Music.
30 New South Wales Institute of the Arts.

HIGHER EDUCATION (AMALGAMATION) ACT 1989
No. 65

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2—THE ARMIDALE COLLEGE OF ADVANCED EDUCATION

4. The Armidale College of Advanced Education

PART 3—THE CONSERVATORIUM OF MUSIC

5. Definitions
6. Dissolution
7. Conservatorium of Music (Sydney Branch)
8. Conservatorium of Music (Newcastle Branch)
9. By-law

PART 4—THE CUMBERLAND COLLEGE OF HEALTH SCIENCES

10. The Cumberland College of Health Sciences

PART 5—THE HUNTER INSTITUTE OF HIGHER EDUCATION

11. The Hunter Institute of Higher Education

PART 6—THE INSTITUTE OF THE ARTS

12. Dissolution
13. The Sydney College of the Arts
14. The City Art Institute
15. Regulation

PART 7—THE KURING-GAI COLLEGE OF ADVANCED EDUCATION

16. The Kuring-gai College of Advanced Education

PART 8—THE NORTHERN RIVERS COLLEGE OF ADVANCED EDUCATION

17. The Northern Rivers College of Advanced Education

Higher Education (Amalgamation) 1989

PART 9—THE SYDNEY COLLEGE OF ADVANCED EDUCATION

18. Dissolution
19. The Sydney Institute of Education
20. The Institute of Nursing Studies
21. The Guild Centre
22. The St George Institute of Education
23. The Institute of Early Childhood Studies
24. The Institute of Technical and Adult Teacher Education
25. By-law etc.

PART 10—TRANSFER OF STAFF

26. Definitions
27. Transfer of staff generally
28. Remuneration and tenure
29. Superannuation
30. Annual leave, long service leave and sick leave
31. No entitlement to dual benefits
32. Public servants may re-apply for positions in the Public Service
33. Temporary staff
34. Fixed term contracts
35. Operation of Industrial Arbitration Act 1940 unaffected

PART 11—GENERAL

36. Transfer of assets etc.
37. Determination of certain questions
38. Students
39. Saving of delegations
40. Instruments exempt from stamp duty etc.
41. Control and management of property
42. Existing investments
43. Construction of certain references
44. Regulations
45. Repeals
46. Amendments

SCHEDULE 1—AMENDMENTS

HIGHER EDUCATION (AMALGAMATION) ACT 1989 No. 65

NEW SOUTH WALES



Act No. 65, 1989

An Act to provide for the amalgamation with various universities of various colleges of advanced education and other educational institutions. [Assented to 23 May 1989]

See also University and University Colleges (Amendment) Act 1989; University of New England Act 1989; University of Newcastle Act 1989; University of Technology, Sydney, Act 1989.

The Legislature of New South Wales enacts:**PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Higher Education (Amalgamation) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Schedule—

“Armidale CAE” means the Armidale College of Advanced Education established under the Colleges of Advanced Education Act 1975;

“City Art Institute” means such part of the Institute of the Arts as comprises the City Art Institute;

“Conservatorium of Music” means the New South Wales State Conservatorium of Music;

“Conservatorium of Music (Newcastle branch)” means such part of the Conservatorium of Music as is situated in Newcastle;

“Conservatorium of Music (Sydney branch)” means such part of the Conservatorium of Music as is situated in Sydney;

“corresponding institution” means—

- (a) the University of Sydney, in relation to—

- (i) the Conservatorium of Music (Sydney branch);
- (ii) the Cumberland College of Health Sciences;
- (iii) the Sydney College of the Arts;
- (iv) the Sydney Institute of Education;
- (v) the Institute of Nursing Studies; or
- (vi) the Guild Centre;

- (b) the University of New England, in relation to—

- (i) the Armidale CAE; or
- (ii) the Northern Rivers CAE;

- (c) the University of Newcastle, in relation to—

- (i) the Conservatorium of Music (Newcastle branch); or
- (ii) the Hunter Institute;

- (d) the University of New South Wales, in relation to—

- (i) the City Art Institute; or
- (ii) the St George Institute of Education;

Higher Education (Amalgamation) 1989

- (e) the University of Technology, Sydney, in relation to—
 - (i) the Kuring-gai CAE; or
 - (ii) the Institute of Technical and Adult Teacher Education; and
- (f) the Macquarie University, in relation to the Institute of Early Childhood Studies;

“Cumberland College of Health Sciences” means the Cumberland College of Health Sciences established under the Colleges of Advanced Education Act 1975;

“former institution” means—

- (a) the Armidale CAE;
- (b) the Conservatorium of Music (Sydney branch);
- (c) the Conservatorium of Music (Newcastle branch);
- (d) the Cumberland College of Health Sciences;
- (e) the Hunter Institute;
- (f) the Sydney College of the Arts;
- (g) the City Art Institute;
- (h) the Kuring-gai CAE;
- (i) the Northern Rivers CAE;
- (j) the Sydney Institute of Education;
- (k) the Institute of Nursing Studies;
- (l) the Guild Centre;
- (m) the St George Institute of Education;
- (n) the Institute of Early Childhood Studies; or
- (o) the Institute of Technical and Adult Teacher Education;

“governing body”, in relation to a former institution, means the governing body of—

- (a) the Armidale CAE;
- (b) the Conservatorium of Music;
- (c) the Cumberland College of Health Sciences;
- (d) the Hunter Institute;
- (e) the Institute of the Arts;
- (f) the Kuring-gai CAE;
- (g) the Northern Rivers CAE; or
- (h) the Sydney CAE,

as the case requires;

“Guild Centre” means such part of the Sydney CAE as comprises the Guild Centre;

Higher Education (Amalgamation) 1989

"Hunter Institute" means the Hunter Institute of Higher Education established under the Colleges of Advanced Education Act 1975;

"Institute of Early Childhood Studies" means such part of the Sydney CAE as comprises the Institute of Early Childhood Studies;

"Institute of Nursing Studies" means such part of the Sydney CAE as comprises the Institute of Nursing Studies;

"Institute of Technical and Adult Teacher Education" means such part of the Sydney CAE as comprises the Institute of Technical and Adult Teacher Education;

"Institute of the Arts" means the New South Wales Institute of the Arts established by the Institute of the Arts Act 1987;

"Kuring-gai CAE" means the Kuring-gai College of Advanced Education established under the Colleges of Advanced Education Act 1975;

"Northern Rivers CAE" means the Northern Rivers College of Advanced Education established under the Colleges of Advanced Education Act 1975;

"relevant commencement" means—

- (a) in relation to the Armidale CAE—the commencement of section 4;
- (b) in relation to the Conservatorium of Music (Sydney branch)—the commencement of section 6;
- (c) in relation to the Conservatorium of Music (Newcastle branch)—the commencement of section 8;
- (d) in relation to the Cumberland College of Health Sciences—the commencement of section 10;
- (e) in relation to the Hunter Institute—the commencement of section 11;
- (f) in relation to the Sydney College of the Arts—the commencement of section 13;
- (g) in relation to the City Art Institute—the commencement of section 14;
- (h) in relation to the Kuring-gai CAE—the commencement of section 16;
- (i) in relation to the Northern Rivers CAE—the commencement of section 17;
- (j) in relation to the Sydney Institute of Education—the commencement of section 19;
- (k) in relation to the Institute of Nursing Studies—the commencement of section 20;
- (l) in relation to the Guild Centre—the commencement of section 21;

Higher Education (Amalgamation) 1989

- (m) in relation to the St George Institute of Education—the commencement of section 22;
- (n) in relation to the Institute of Early Childhood Studies—the commencement of section 23; and
- (o) in relation to the Institute of Technical and Adult Teacher Education—the commencement of section 24;

“St George Institute of Education” means such part of the Sydney CAE as comprises the St George Institute of Education;

“Sydney CAE” means the Sydney College of Advanced Education established under the Colleges of Advanced Education Act 1975;

“Sydney College of the Arts” means such part of the Institute of the Arts as comprises the Sydney College of the Arts;

“Sydney Institute of Education” means such part of the Sydney CAE as comprises the Sydney Institute of Education;

“University of New England, Armidale” means the network member of that name within the meaning of the University of New England Act 1989;

“University of New England, Northern Rivers” means the network member of that name within the meaning of the University of New England Act 1989.

(2) In this Act, a reference to a former institution includes, where the former institution forms part of the Conservatorium of Music, the Institute of the Arts or the Sydney CAE, a reference to whichever of those establishments the former institution forms part of.

PART 2—THE ARMIDALE COLLEGE OF ADVANCED EDUCATION

The Armidale College of Advanced Education

4. (1) The Armidale CAE is abolished and its Council is dissolved.

(2) The property of the Armidale CAE is vested in the University of New England (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the University of New England.

(3) The University of New England has the control and management of land that was under the control and management of the Armidale CAE immediately before the commencement of this section.

(4) The Armidale College of Advanced Education By-law—

- (a) continues in force (in respect only of such part of the University of New England as comprises the institution that was, immediately before the commencement of this section, the Armidale CAE) as if it had been made by the Board of Governors of the University of New England; and

(b) may be amended and revoked accordingly.

(5) The University of New England By-laws do not apply to that part of the University of New England referred to in subsection (4) while the By-law referred to in that subsection has effect.

PART 3—THE CONSERVATORIUM OF MUSIC

Definitions

5. In this Part—

- (a) a reference to the property of the Conservatorium of Music is a reference to—
 - (i) property that is vested in the Board of Governors of the Conservatorium of Music; or
 - (ii) property that is vested in the Crown and that is used exclusively for the purposes of the Conservatorium of Music; and
- (b) a reference to land that is under the control and management of the Conservatorium of Music is a reference to—
 - (i) land that is under the control and management of the Board of Governors of the Conservatorium of Music; or
 - (ii) land that is under the control and management of the Crown and that is used exclusively for the purposes of the Conservatorium of Music.

Dissolution

6. The Conservatorium of Music is abolished and its Board of Governors is dissolved.

Conservatorium of Music (Sydney Branch)

7. (1) The property of the Conservatorium of Music that relates to the Conservatorium of Music (Sydney branch) is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Sydney Conservatorium of Music established under section 42 of the University and University Colleges Act 1900.

(2) The University of Sydney has the control and management of land that was under the control and management of the Conservatorium of Music in relation to the Conservatorium of Music (Sydney branch) immediately before the commencement of this section.

Higher Education (Amalgamation) 1989

Conservatorium of Music (Newcastle branch)

8. (1) The property of the Conservatorium of Music that relates to the Conservatorium of Music (Newcastle branch) is vested in the University of Newcastle (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Newcastle has the control and management of land that was under the control and management of the Conservatorium of Music in relation to the Conservatorium of Music (Newcastle branch) immediately before the commencement of this section.

By-law

9. The New South Wales State Conservatorium of Music By-law is repealed.

PART 4—THE CUMBERLAND COLLEGE OF HEALTH SCIENCES

The Cumberland College of Health Sciences

10. (1) The Cumberland College of Health Sciences is abolished and its Council is dissolved.

(2) The property of the Cumberland College of Health Sciences is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Cumberland College of Health Sciences established under section 42 of the University and University Colleges Act 1900.

(3) The University of Sydney has the control and management of land that was under the control and management of the Cumberland College of Health Sciences immediately before the commencement of this section.

(4) The Cumberland College of Health Sciences By-law is repealed.

PART 5—THE HUNTER INSTITUTE OF HIGHER EDUCATION

The Hunter Institute of Higher Education

11. (1) The Hunter Institute is abolished and its Council is dissolved.

(2) The property of the Hunter Institute is vested in the University of Newcastle (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(3) The University of Newcastle has the control and management of land that was under the control and management of the Hunter Institute immediately before the commencement of this section.

(4) The Newcastle College of Advanced Education By-law—

- (a) continues in force (in respect only of such part of the University of Newcastle as comprises the institution that was, immediately before the commencement of this section, the Hunter Institute) as if it had been made by the Council of the University of Newcastle; and
- (b) may be amended and revoked accordingly.

(5) The University of Newcastle By-laws do not apply to that part of the University of Newcastle referred to in subsection (4) while the By-law referred to in that subsection has effect.

PART 6—THE INSTITUTE OF THE ARTS

Dissolution

12. The Institute of the Arts is abolished and its Board of Governors is dissolved.

The Sydney College of the Arts

13. (1) The property of the Institute of the Arts that relates to the Sydney College of the Arts is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Sydney College of the Arts established under section 42 of the University and University Colleges Act 1900.

(2) The University of Sydney has the control and management of land that was under the control and management of the Institute of the Arts in relation to the Sydney College of the Arts immediately before the commencement of this section.

The City Art Institute

14. (1) The property of the Institute of the Arts that relates to the City Art Institute is vested in the University of New South Wales (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of New South Wales has the control and management of land that was under the control and management of the Institute of the Arts in relation to the City Art Institute immediately before the commencement of this section.

Regulation

15. The Institute of the Arts (Transferred Employees) Regulation 1987 is repealed.

PART 7—THE KURING-GAI COLLEGE OF ADVANCED EDUCATION**The Kuring-gai College of Advanced Education**

16. (1) The Kuring-gai CAE is abolished and its Council is dissolved.
- (2) The property of the Kuring-gai CAE is vested in the University of Technology, Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.
- (3) The University of Technology, Sydney, has the control and management of land that was under the control and management of the Kuring-gai CAE immediately before the commencement of this section.
- (4) The Kuring-gai College of Advanced Education By-law—
- (a) continues in force (in respect only of such part of the University of Technology, Sydney, as comprises the institution that was, immediately before the commencement of this section, the Kuring-gai CAE) as if it had been made by the Council of the University of Technology, Sydney; and
 - (b) may be amended and revoked accordingly.
- (5) The University of Technology, Sydney, By-laws do not apply to that part of the University of Technology, Sydney, referred to in subsection (4) while the By-law referred to in that subsection has effect.

PART 8—THE NORTHERN RIVERS COLLEGE OF ADVANCED EDUCATION**The Northern Rivers College of Advanced Education**

17. (1) The Northern Rivers CAE is abolished and its Council is dissolved.
- (2) The property of the Northern Rivers CAE is vested in the University of New England (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the University of New England.
- (3) The University of New England has the control and management of land that was under the control and management of the Northern Rivers CAE immediately before the commencement of this section.
- (4) The Northern Rivers College of Advanced Education By-law—
- (a) continues in force (in respect only of the University of New England, Northern Rivers) as if it had been made by the Board of Governors of the University of New England; and
 - (b) may be amended and revoked accordingly.

(5) The University of New England By-laws do not have effect in relation to the University of New England, Northern Rivers, while the By-law referred to in subsection (4) has effect.

PART 9—THE SYDNEY COLLEGE OF ADVANCED EDUCATION

Dissolution

18. The Sydney CAE is abolished and its Council is dissolved.

The Sydney Institute of Education

19. (1) The property of the Sydney CAE that relates to the Sydney Institute of Education is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Sydney Institute of Education immediately before the commencement of this section.

The Institute of Nursing Studies

20. (1) The property of the Sydney CAE that relates to the Institute of Nursing Studies is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Nursing Studies immediately before the commencement of this section.

The Guild Centre

21. (1) The property of the Sydney CAE that relates to the Guild Centre is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Guild Centre immediately before the commencement of this section.

The St George Institute of Education

22. (1) The property of the Sydney CAE that relates to the St George Institute of Education is vested in the University of New South Wales (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of New South Wales has the control and management of land that was under the control and management of the Sydney CAE in relation to the St George Institute of Education immediately before the commencement of this section.

The Institute of Early Childhood Studies

23. (1) The property of the Sydney CAE that relates to the Institute of Early Childhood Studies is vested in the Macquarie University (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The Macquarie University has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Early Childhood Studies immediately before the commencement of this section.

The Institute of Technical and Adult Teacher Education

24. (1) The property of the Sydney CAE that relates to the Institute of Technical and Adult Teacher Education is vested in the University of Technology, Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Technology, Sydney, has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Technical and Adult Teacher Education immediately before the commencement of this section.

By-law etc.

25. The Sydney College of Advanced Education By-law 1982 and the Sydney College of Advanced Education Regulation 1981 are repealed.

PART 10—TRANSFER OF STAFF**Definitions**

26. In this Part—

“officer”, in relation to a former institution, means a person who, immediately before the relevant commencement, held any salaried office or employment in the staff establishment of that institution (otherwise than as a temporary staff member or a staff member employed on a fixed term contract) and includes, in the case of the Conservatorium of Music, any member of staff of the Public Service who was, immediately before that commencement, engaged solely in connection with the Conservatorium of Music;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

“temporary staff member”, in relation to a former institution, means a person who, immediately before the relevant commencement, was employed in the staff establishment of that institution on terms and conditions that allowed for his or her services to be dispensed with at any time.

Transfer of staff generally

27. (1) Each officer of a former institution shall, on the relevant commencement, become an officer of the corresponding institution.

(2) Except as otherwise provided by this Part or the regulations, the terms and conditions on which an officer of a former institution becomes an officer of a corresponding institution shall be in accordance with such arrangements, if any, as are agreed upon (before the relevant commencement) between the governing body of the former institution and the governing body of the corresponding institution.

Remuneration and tenure

28. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution shall become such an officer on terms and conditions as to remuneration, and duration of appointment, no less favourable than those on which he or she was employed at the former institution immediately before the relevant commencement.

(2) Such part of the remuneration referred to in subsection (1) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 5 of the Industrial Arbitration Act 1940 until the salary is, or the wages are, lawfully varied.

Superannuation

29. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution—

Higher Education (Amalgamation) 1989

(a) may continue to contribute to any superannuation scheme to which the person was a contributor immediately before becoming an officer of the corresponding institution; and

(b) is entitled to receive any payment, pension or gratuity accrued or accruing to the person under any such scheme,

as if he or she had continued to be such a contributor during his or her service as an officer of the corresponding institution.

(2) Service by an officer of a former institution as an officer of the corresponding institution shall be taken to be service as an officer of the former institution for the purposes of any law under which the officer continues to contribute to any such scheme or by which an entitlement under any such scheme is conferred.

(3) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution shall be regarded as an officer or employee, and the corresponding institution shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this section.

(4) If a person would, but for this subsection, be entitled under subsection (1) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under any such scheme—

(a) the person is not so entitled on the person's becoming a contributor to any other superannuation scheme; and

(b) the provisions of subsection (3) cease to apply to or in respect of the person and the corresponding institution where the person becomes a contributor to any such other superannuation scheme.

(5) Subsection (4) does not prevent the payment to an officer of a former institution, on the officer's ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the officer if the officer had ceased, by reason of resignation, to be such a contributor.

Annual leave, long service leave and sick leave

30. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution retains any rights to—

(a) annual leave;

(b) leave in the nature of long service leave; and

(c) sick leave,

accrued or accruing to the person as an officer of the former institution.

(2) A person's entitlement to any such leave shall be calculated—

(a) for such part of any period during which that leave accrued or was accruing as occurred before the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the former institution, before that commencement; and

Higher Education (Amalgamation) 1989

- (b) for such part of that period as occurred after the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the corresponding institution, after that commencement.

No entitlement to dual benefits

31. An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution is not entitled to claim, both under this Act and any other Act, dual benefits of the same kind in respect of the same period of service.

Public servants may re-apply for positions in the Public Service

32. (1) An officer of a former institution who, immediately before the relevant commencement, was a public servant may, within the period of 3 years immediately following that commencement, apply for a position in the Public Service as if the officer were still a public servant.

(2) An officer of a former institution who applies for such a position, or who is appointed to or employed in such a position, shall, for the purposes of—

- (a) the Public Sector Management Act 1988;
- (b) the Government and Related Employees Appeal Tribunal Act 1980; and
- (c) the Industrial Arbitration Act 1940,

be taken to be a public servant in relation to the application, appointment or employment.

(3) There is no right of appeal under the Government and Related Employees Appeal Tribunal Act 1980—

- (a) for a person against the filling of a position in the Public Service by an officer of a former institution; or
- (b) for an officer of a former institution against the filling of a position in the Public Service by another person.

(4) For the purposes of this section, a reference to a public servant is a reference to an officer employed within the Public Service.

Temporary staff

33. (1) Each temporary staff member of a former institution shall, on the relevant commencement, become a temporary staff member of the corresponding institution.

Higher Education (Amalgamation) 1989

(2) A temporary staff member of a former institution who, pursuant to this section, becomes a temporary staff member of the corresponding institution shall become such a staff member on the same terms and conditions (including conditions as to remuneration) as those on which he or she was employed at the former institution immediately before the relevant commencement.

(3) Such part of the remuneration referred to in subsection (2) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 5 of the Industrial Arbitration Act 1940 until the salary is, or the wages are, lawfully varied.

Fixed term contracts

34. A fixed term contract in force, immediately before the relevant commencement, between a person and a former institution (being a contract under which the person performed services for that institution)—

- (a) shall be taken, for the remainder of its term, to be a contract in the same terms, between the person and the corresponding institution, under which the corresponding institution assumes the rights and obligations of the former institution; and
- (b) may be arbitrated, terminated or renewed in any manner provided by the contract.

Operation of Industrial Arbitration Act 1940 unaffected

35. Nothing in this Part affects the operation of the Industrial Arbitration Act 1940.

PART 11—GENERAL**Transfer of assets etc.**

36. (1) Subject to this Act, on and from the relevant commencement, any assets, rights, liabilities or obligations of a former institution become assets, rights, liabilities or obligations of the corresponding institution.

(2) In this section, a reference to a former institution includes, in relation to the Conservatorium of Music, a reference to—

- (a) the Board of Governors of the Conservatorium of Music; and
- (b) in relation to the assets, rights, liabilities or obligations of the Crown that relate exclusively to the Conservatorium of Music—the Crown.

Determination of certain questions

37. (1) Any question arising in connection with the operation of this Act—

- (a) as to which institution any particular item of property belongs or relates to;
 - (b) as to which land is under the control and management of any particular institution;
 - (c) as to which institution any assets, rights, liabilities or obligations belong or relate to; or
 - (d) as to which institution the employment of any staff pertains to,
- shall be determined by the Minister.

(2) A certificate of the Minister as to a determination under this section is, for any purpose, evidence of the matters contained in the certificate.

Students

38. (1) Each person who was, immediately before the relevant commencement, a student of a former institution enrolled in a course of study shall on that commencement (unless the student was a graduand in that course) become a student of the corresponding institution and be enrolled in a course of study that is substantially the same as the course of study in which the student was enrolled at the former institution.

(2) The corresponding institution shall (for such period as is necessary for the purposes of this section and, in any case, until the end of the academic year next following the relevant commencement) provide such courses of study as are necessary for the purposes of this section.

(3) If a student is enrolled in a course of study pursuant to this section, the corresponding institution shall, as far as it may practicably do so, give the student credit in that course for any subject or work completed by the student in the course of study from which the student was transferred.

(4) Students so enrolled are entitled, on satisfactory completion of their courses, to appropriate awards conferred by the corresponding institution but may, if they so desire, instead obtain awards conferred in the name of the former institution at which they were previously enrolled.

(5) For the purposes of subsection (4), the seal of a former institution may be affixed to any document pursuant to a resolution of the governing body of the corresponding institution.

(6) The seal of a former institution shall, on and from the relevant commencement, be kept in the custody of such person or body as the Minister may determine.

Saving of delegations

39. Any delegation made by the governing body of a former institution and in force immediately before the relevant commencement continues to have effect as if it were a delegation made by the governing body of the corresponding institution, but may be revoked at any time by that governing body.

Instruments exempt from stamp duty etc.

40. Any instrument that is executed for the purposes of disposing of, or otherwise dealing with, property in accordance with this Act is exempt—

- (a) from payment of stamp duty under the Stamp Duties Act 1920; and
- (b) from payment of any other fee or charge that would otherwise be payable under any other Act in respect of the registration of any such instrument.

Control and management of property

41. The transfer, by this Act, of the control and management of any property from a former institution to the corresponding institution does not affect any power of the person or body by whom the control and management of that property has been conferred, or of any lawful successor of that person or body—

- (a) to remove the control and management of that property from the corresponding institution; or
- (b) to vary the conditions subject to which the control and management of that property may be exercised by the corresponding institution,

that could have been exercised by that person or body, or by that lawful successor, in respect of the former institution had this Act not been enacted.

Existing investments

42. Nothing in this Act affects the validity of any investment made by or on behalf of a former institution before the relevant commencement.

Construction of certain references

43. In any other Act or in any statutory instrument (including any industrial award or industrial agreement) or other document, a reference to a former institution shall, on and from the relevant commencement, be read as a reference to the corresponding institution.

*Higher Education (Amalgamation) 1989***Regulations**

44. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act and the following Acts:

University and University Colleges (Amendment) Act 1989;
 University of New England Act 1989;
 University of Newcastle Act 1989;
 University of Technology, Sydney, Act 1989.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

(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—

- (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
- (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.

Repeals

45. (1) The Institute of the Arts Act 1987 is repealed.

(2) The New South Wales State Conservatorium of Music Act 1965 is repealed.

Amendments

46. Each Act referred to in Schedule 1 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENTS

(Sec. 46)

Public Authorities (Financial Arrangements) Act 1987 No. 33—**Schedule 1 (Authorities)—**

From Schedule 1, omit:

New South Wales State Conservatorium of Music.
 Northern Rivers College of Advanced Education.
 Sydney College of Advanced Education.

Higher Education (Amalgamation) 1989

SCHEDULE 1—AMENDMENTS—*continued***Public Finance and Audit Act 1983 No. 152—**Schedule 2 (**Statutory Bodies**)—

From Schedule 2, omit:

Board of Governors of the New South Wales State
Conservatorium of Music.New South Wales Institute of the Arts.

[Minister's second reading speech made in—
Legislative Assembly on 12 April 1989
Legislative Council on 9 May 1989]







HIGHER EDUCATION (AMALGAMATION) BILL 1989

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2—THE ARMIDALE COLLEGE OF ADVANCED EDUCATION

4. The Armidale College of Advanced Education

PART 3—THE CONSERVATORIUM OF MUSIC

5. Definitions
6. Dissolution
7. Conservatorium of Music (Sydney Branch)
8. Conservatorium of Music (Newcastle Branch)
9. By-law

PART 4—THE CUMBERLAND COLLEGE OF HEALTH SCIENCES

10. The Cumberland College of Health Sciences

PART 5—THE HUNTER INSTITUTE OF HIGHER EDUCATION

11. The Hunter Institute of Higher Education

PART 6—THE INSTITUTE OF THE ARTS

12. Dissolution
13. The Sydney College of the Arts
14. The City Art Institute
15. Regulation

PART 7—THE KURING-GAI COLLEGE OF ADVANCED EDUCATION

16. The Kuring-gai College of Advanced Education

PART 8—THE NORTHERN RIVERS COLLEGE OF ADVANCED EDUCATION

17. The Northern Rivers College of Advanced Education

Higher Education (Amalgamation) 1989

PART 9—THE SYDNEY COLLEGE OF ADVANCED EDUCATION

18. Dissolution
19. The Sydney Institute of Education
20. The Institute of Nursing Studies
21. The Guild Centre
22. The St George Institute of Education
23. The Institute of Early Childhood Studies
24. The Institute of Technical and Adult Teacher Education
25. By-law etc.

PART 10—TRANSFER OF STAFF

26. Definitions
27. Transfer of staff generally
28. Remuneration and tenure
29. Superannuation
30. Annual leave, long service leave and sick leave
31. No entitlement to dual benefits
32. Public servants may re-apply for positions in the Public Service
33. Temporary staff
34. Fixed term contracts
35. Operation of Industrial Arbitration Act 1940 unaffected

PART 11—GENERAL

36. Transfer of assets etc.
37. Determination of certain questions
38. Students
39. Saving of delegations
40. Instruments exempt from stamp duty etc.
41. Control and management of property
42. Existing investments
43. Construction of certain references
44. Regulations
45. Repeals
46. Amendments

SCHEDULE 1—AMENDMENTS

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, , 1989*

NEW SOUTH WALES



Act No. , 1989

An Act to provide for the amalgamation with various universities of various colleges of advanced education and other educational institutions.

See also University and University Colleges (Amendment) Bill 1989; University of New England Bill 1989; University of Newcastle Bill 1989; University of Technology, Sydney, Bill 1989.

Higher Education (Amalgamation) 1989

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Higher Education (Amalgamation) Act
5 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

- 10 3. (1) In this Schedule—

“Armidale CAE” means the Armidale College of Advanced Education established under the Colleges of Advanced Education Act 1975;

“City Art Institute” means such part of the Institute of the Arts as comprises the City Art Institute;

- 15 “Conservatorium of Music” means the New South Wales State Conservatorium of Music;

“Conservatorium of Music (Newcastle branch)” means such part of the Conservatorium of Music as is situated in Newcastle;

- 20 “Conservatorium of Music (Sydney branch)” means such part of the Conservatorium of Music as is situated in Sydney;

“corresponding institution” means—

- (a) the University of Sydney, in relation to—

- 25 (i) the Conservatorium of Music (Sydney branch);
(ii) the Cumberland College of Health Sciences;
(iii) the Sydney College of the Arts;
(iv) the Sydney Institute of Education;
(v) the Institute of Nursing Studies; or
(vi) the Guild Centre;

- (b) the University of New England, in relation to—

- 30 (i) the Armidale CAE; or
(ii) the Northern Rivers CAE;

- (c) the University of Newcastle, in relation to—

- (i) the Conservatorium of Music (Newcastle branch); or
(ii) the Hunter Institute;

- 35 (d) the University of New South Wales, in relation to—

- (i) the City Art Institute; or
(ii) the St George Institute of Education;

Higher Education (Amalgamation) 1989

-
- (e) the University of Technology, Sydney, in relation to—
 (i) the Kuring-gai CAE; or
 (ii) the Institute of Technical and Adult Teacher Education; and
 5 (f) the Macquarie University, in relation to the Institute of Early Childhood Studies;
- “Cumberland College of Health Sciences” means the Cumberland College of Health Sciences established under the Colleges of Advanced Education Act 1975;
- “former institution” means—
- 10 (a) the Armidale CAE;
 (b) the Conservatorium of Music (Sydney branch);
 (c) the Conservatorium of Music (Newcastle branch);
 (d) the Cumberland College of Health Sciences;
 (e) the Hunter Institute;
- 15 (f) the Sydney College of the Arts;
 (g) the City Art Institute;
 (h) the Kuring-gai CAE;
 (i) the Northern Rivers CAE;
 (j) the Sydney Institute of Education;
- 20 (k) the Institute of Nursing Studies;
 (l) the Guild Centre;
 (m) the St George Institute of Education;
 (n) the Institute of Early Childhood Studies; or
 (o) the Institute of Technical and Adult Teacher Education;
- 25 “governing body”, in relation to a former institution, means the governing body of—
 (a) the Armidale CAE;
 (b) the Conservatorium of Music;
 (c) the Cumberland College of Health Sciences;
- 30 (d) the Hunter Institute;
 (e) the Institute of the Arts;
 (f) the Kuring-gai CAE;
 (g) the Northern Rivers CAE; or
 (h) the Sydney CAE,
- 35 as the case requires;
- “Guild Centre” means such part of the Sydney CAE as comprises the Guild Centre;

Higher Education (Amalgamation) 1989

- “Hunter Institute” means the Hunter Institute of Higher Education established under the Colleges of Advanced Education Act 1975;
- “Institute of Early Childhood Studies” means such part of the Sydney CAE as comprises the Institute of Early Childhood Studies;
- 5 “Institute of Nursing Studies” means such part of the Sydney CAE as comprises the Institute of Nursing Studies;
- “Institute of Technical and Adult Teacher Education” means such part of the Sydney CAE as comprises the Institute of Technical and Adult Teacher Education;
- 10 “Institute of the Arts” means the New South Wales Institute of the Arts established by the Institute of the Arts Act 1987;
- “Kuring-gai CAE” means the Kuring-gai College of Advanced Education established under the Colleges of Advanced Education Act 1975;
- 15 “Northern Rivers CAE” means the Northern Rivers College of Advanced Education established under the Colleges of Advanced Education Act 1975;
- “relevant commencement” means—
- (a) in relation to the Armidale CAE—the commencement of section 4;
 - 20 (b) in relation to the Conservatorium of Music (Sydney branch)—the commencement of section 6;
 - (c) in relation to the Conservatorium of Music (Newcastle branch)—the commencement of section 8;
 - 25 (d) in relation to the Cumberland College of Health Sciences—the commencement of section 10;
 - (e) in relation to the Hunter Institute—the commencement of section 11;
 - (f) in relation to the Sydney College of the Arts—the commencement of section 13;
 - 30 (g) in relation to the City Art Institute—the commencement of section 14;
 - (h) in relation to the Kuring-gai CAE—the commencement of section 16;
 - 35 (i) in relation to the Northern Rivers CAE—the commencement of section 17;
 - (j) in relation to the Sydney Institute of Education—the commencement of section 19;
 - (k) in relation to the Institute of Nursing Studies—the commencement of section 20;
 - 40 (l) in relation to the Guild Centre—the commencement of section 21;

Higher Education (Amalgamation) 1989

- (m) in relation to the St George Institute of Education—the commencement of section 22;
 - (n) in relation to the Institute of Early Childhood Studies—the commencement of section 23; and
 - 5 (o) in relation to the Institute of Technical and Adult Teacher Education—the commencement of section 24;
- “St George Institute of Education” means such part of the Sydney CAE as comprises the St George Institute of Education;
- 10 “Sydney CAE” means the Sydney College of Advanced Education established under the Colleges of Advanced Education Act 1975;
- “Sydney College of the Arts” means such part of the Institute of the Arts as comprises the Sydney College of the Arts;
- “Sydney Institute of Education” means such part of the Sydney CAE as comprises the Sydney Institute of Education;
- 15 “University of New England, Armidale” means the network member of that name within the meaning of the University of New England Act 1989;
- 20 “University of New England, Northern Rivers” means the network member of that name within the meaning of the University of New England Act 1989.

(2) In this Act, a reference to a former institution includes, where the former institution forms part of the Conservatorium of Music, the Institute of the Arts or the Sydney CAE, a reference to whichever of those establishments the former institution forms part of.

25 **PART 2—THE ARMIDALE COLLEGE OF ADVANCED EDUCATION**

The Armidale College of Advanced Education

4. (1) The Armidale CAE is abolished and its Council is dissolved.
- (2) The property of the Armidale CAE is vested in the University of New England (subject to any trusts or conditions subject to which it was held
- 30 immediately before the commencement of this section) to be applied by the University for the purposes of the University of New England.
- (3) The University of New England has the control and management of land that was under the control and management of the Armidale CAE immediately before the commencement of this section.
- 35 (4) The Armidale College of Advanced Education By-law—
- (a) continues in force (in respect only of such part of the University of New England as comprises the institution that was, immediately before the commencement of this section, the Armidale CAE) as if
- 40 it had been made by the Board of Governors of the University of New England; and

Higher Education (Amalgamation) 1989

(b) may be amended and revoked accordingly.

(5) The University of New England By-laws do not apply to that part of the University of New England referred to in subsection (4) while the By-law referred to in that subsection has effect.

5 **PART 3—THE CONSERVATORIUM OF MUSIC**

Definitions

5. In this Part—

- (a) a reference to the property of the Conservatorium of Music is a reference to—
 - 10 (i) property that is vested in the Board of Governors of the Conservatorium of Music; or
 - (ii) property that is vested in the Crown and that is used exclusively for the purposes of the Conservatorium of Music; and
- 15 (b) a reference to land that is under the control and management of the Conservatorium of Music is a reference to—
 - (i) land that is under the control and management of the Board of Governors of the Conservatorium of Music; or
 - 20 (ii) land that is under the control and management of the Crown and that is used exclusively for the purposes of the Conservatorium of Music.

Dissolution

6. The Conservatorium of Music is abolished and its Board of Governors is dissolved.

Conservatorium of Music (Sydney Branch)

25 7. (1) The property of the Conservatorium of Music that relates to the Conservatorium of Music (Sydney branch) is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the
 30 University for the purposes of the Sydney Conservatorium of Music established under section 42 of the University and University Colleges Act 1900.

 (2) The University of Sydney has the control and management of land that was under the control and management of the Conservatorium of Music in relation to the Conservatorium of Music (Sydney branch) immediately
 35 before the commencement of this section.

Conservatorium of Music (Newcastle branch)

8. (1) The property of the Conservatorium of Music that relates to the Conservatorium of Music (Newcastle branch) is vested in the University of Newcastle (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

- (2) The University of Newcastle has the control and management of land that was under the control and management of the Conservatorium of Music in relation to the Conservatorium of Music (Newcastle branch) immediately before the commencement of this section.

By-law

9. The New South Wales State Conservatorium of Music By-law is repealed.

PART 4—THE CUMBERLAND COLLEGE OF HEALTH SCIENCES**15 The Cumberland College of Health Sciences**

10. (1) The Cumberland College of Health Sciences is abolished and its Council is dissolved.

- (2) The property of the Cumberland College of Health Sciences is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Cumberland College of Health Sciences established under section 42 of the University and University Colleges Act 1900.

- (3) The University of Sydney has the control and management of land that was under the control and management of the Cumberland College of Health Sciences immediately before the commencement of this section.

- (4) The Cumberland College of Health Sciences By-law is repealed.

PART 5—THE HUNTER INSTITUTE OF HIGHER EDUCATION**The Hunter Institute of Higher Education**

11. (1) The Hunter Institute is abolished and its Council is dissolved.

- (2) The property of the Hunter Institute is vested in the University of Newcastle (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

- (3) The University of Newcastle has the control and management of land that was under the control and management of the Hunter Institute immediately before the commencement of this section.

(4) The Newcastle College of Advanced Education By-law—

- (a) continues in force (in respect only of such part of the University of Newcastle as comprises the institution that was, immediately before the commencement of this section, the Hunter Institute) as if it had been made by the Council of the University of Newcastle; and
- (b) may be amended and revoked accordingly.

(5) The University of Newcastle By-laws do not apply to that part of the University of Newcastle referred to in subsection (4) while the By-law referred to in that subsection has effect.

PART 6—THE INSTITUTE OF THE ARTS**Dissolution**

12. The Institute of the Arts is abolished and its Board of Governors is dissolved.

The Sydney College of the Arts

13. (1) The property of the Institute of the Arts that relates to the Sydney College of the Arts is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the Sydney College of the Arts established under section 42 of the University and University Colleges Act 1900.

(2) The University of Sydney has the control and management of land that was under the control and management of the Institute of the Arts in relation to the Sydney College of the Arts immediately before the commencement of this section.

25 The City Art Institute

14. (1) The property of the Institute of the Arts that relates to the City Art Institute is vested in the University of New South Wales (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of New South Wales has the control and management of land that was under the control and management of the Institute of the Arts in relation to the City Art Institute immediately before the commencement of this section.

35 Regulation

15. The Institute of the Arts (Transferred Employees) Regulation 1987 is repealed.

PART 7—THE KURING-GAI COLLEGE OF ADVANCED EDUCATION

The Kuring-gai College of Advanced Education

16. (1) The Kuring-gai CAE is abolished and its Council is dissolved.
- 5 (2) The property of the Kuring-gai CAE is vested in the University of Technology, Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.
- 10 (3) The University of Technology, Sydney, has the control and management of land that was under the control and management of the Kuring-gai CAE immediately before the commencement of this section.
- (4) The Kuring-gai College of Advanced Education By-law—
 - 15 (a) continues in force (in respect only of such part of the University of Technology, Sydney, as comprises the institution that was, immediately before the commencement of this section, the Kuring-gai CAE) as if it had been made by the Council of the University of Technology, Sydney; and
 - (b) may be amended and revoked accordingly.
- 20 (5) The University of Technology, Sydney, By-laws do not apply to that part of the University of Technology, Sydney, referred to in subsection (4) while the By-law referred to in that subsection has effect.

PART 8—THE NORTHERN RIVERS COLLEGE OF ADVANCED EDUCATION

25 The Northern Rivers College of Advanced Education

17. (1) The Northern Rivers CAE is abolished and its Council is dissolved.
- (2) The property of the Northern Rivers CAE is vested in the University of New England (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes of the University of New England.
- 30 (3) The University of New England has the control and management of land that was under the control and management of the Northern Rivers CAE immediately before the commencement of this section.
- 35 (4) The Northern Rivers College of Advanced Education By-law—
 - (a) continues in force (in respect only of the University of New England, Northern Rivers) as if it had been made by the Board of Governors of the University of New England; and
 - (b) may be amended and revoked accordingly.

(5) The University of New England By-laws do not have effect in relation to the University of New England, Northern Rivers, while the By-law referred to in subsection (4) has effect.

PART 9—THE SYDNEY COLLEGE OF ADVANCED EDUCATION

5 Dissolution

18. The Sydney CAE is abolished and its Council is dissolved.

The Sydney Institute of Education

19. (1) The property of the Sydney CAE that relates to the Sydney Institute of Education is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Sydney Institute of Education immediately before the commencement of this section.

The Institute of Nursing Studies

20. (1) The property of the Sydney CAE that relates to the Institute of Nursing Studies is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Nursing Studies immediately before the commencement of this section.

The Guild Centre

21. (1) The property of the Sydney CAE that relates to the Guild Centre is vested in the University of Sydney (subject to any trusts or conditions subject to which it was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Sydney has the control and management of land that was under the control and management of the Sydney CAE in relation to the Guild Centre immediately before the commencement of this section.

*Higher Education (Amalgamation) 1989***The St George Institute of Education**

22. (1) The property of the Sydney CAE that relates to the St George Institute of Education is vested in the University of New South Wales (subject to any trusts or conditions subject to which it was held immediately
5 before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of New South Wales has the control and management of land that was under the control and management of the Sydney CAE in relation to the St George Institute of Education immediately before the
10 commencement of this section.

The Institute of Early Childhood Studies

23. (1) The property of the Sydney CAE that relates to the Institute of Early Childhood Studies is vested in the Macquarie University (subject to any trusts or conditions subject to which it was held immediately before
15 the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The Macquarie University has the control and management of land that was under the control and management of the Sydney CAE in relation to the Institute of Early Childhood Studies immediately before the
20 commencement of this section.

The Institute of Technical and Adult Teacher Education

24. (1) The property of the Sydney CAE that relates to the Institute of Technical and Adult Teacher Education is vested in the University of Technology, Sydney (subject to any trusts or conditions subject to which it
25 was held immediately before the commencement of this section) to be applied by the University for the purposes for which the University is established.

(2) The University of Technology, Sydney, has the control and management of land that was under the control and management of the
30 Sydney CAE in relation to the Institute of Technical and Adult Teacher Education immediately before the commencement of this section.

By-law etc.

25. The Sydney College of Advanced Education By-law 1982 and the Sydney College of Advanced Education Regulation 1981 are repealed.

35

PART 10—TRANSFER OF STAFF**Definitions**

26. In this Part—

Higher Education (Amalgamation) 1989

“officer”, in relation to a former institution, means a person who, immediately before the relevant commencement, held any salaried office or employment in the staff establishment of that institution (otherwise than as a temporary staff member or a staff member employed on a fixed term contract) and includes, in the case of the Conservatorium of Music, any member of staff of the Public Service who was, immediately before that commencement, engaged solely in connection with the Conservatorium of Music;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

“temporary staff member”, in relation to a former institution, means a person who, immediately before the relevant commencement, was employed in the staff establishment of that institution on terms and conditions that allowed for his or her services to be dispensed with at any time.

Transfer of staff generally

27. (1) Each officer of a former institution shall, on the relevant commencement, become an officer of the corresponding institution.

(2) Except as otherwise provided by this Part or the regulations, the terms and conditions on which an officer of a former institution becomes an officer of a corresponding institution shall be in accordance with such arrangements, if any, as are agreed upon (before the relevant commencement) between the governing body of the former institution and the governing body of the corresponding institution.

Remuneration and tenure

28. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution shall become such an officer on terms and conditions as to remuneration, and duration of appointment, no less favourable than those on which he or she was employed at the former institution immediately before the relevant commencement.

(2) Such part of the remuneration referred to in subsection (1) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 5 of the Industrial Arbitration Act 1940 until the salary is, or the wages are, lawfully varied.

Superannuation

29. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution—

Higher Education (Amalgamation) 1989

(a) may continue to contribute to any superannuation scheme to which the person was a contributor immediately before becoming an officer of the corresponding institution; and

5 (b) is entitled to receive any payment, pension or gratuity accrued or accruing to the person under any such scheme,
as if he or she had continued to be such a contributor during his or her service as an officer of the corresponding institution.

(2) Service by an officer of a former institution as an officer of the corresponding institution shall be taken to be service as an officer of the
10 former institution for the purposes of any law under which the officer continues to contribute to any such scheme or by which an entitlement under any such scheme is conferred.

(3) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution shall be regarded as an officer or
15 employee, and the corresponding institution shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this section.

(4) If a person would, but for this subsection, be entitled under subsection (1) to contribute to a superannuation scheme or to receive any payment,
20 pension or gratuity under any such scheme—

(a) the person is not so entitled on the person's becoming a contributor to any other superannuation scheme; and

25 (b) the provisions of subsection (3) cease to apply to or in respect of the person and the corresponding institution where the person becomes a contributor to any such other superannuation scheme.

(5) Subsection (4) does not prevent the payment to an officer of a former institution, on the officer's ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the officer if the officer had ceased, by reason of resignation, to be such a contributor.

30 Annual leave, long service leave and sick leave

30. (1) An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution retains any rights to—

(a) annual leave;

(b) leave in the nature of long service leave; and

35 (c) sick leave,

accrued or accruing to the person as an officer of the former institution.

(2) A person's entitlement to any such leave shall be calculated—

40 (a) for such part of any period during which that leave accrued or was accruing as occurred before the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the former institution, before that commencement; and

Higher Education (Amalgamation) 1989

- (b) for such part of that period as occurred after the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the corresponding institution, after that commencement.

5 No entitlement to dual benefits

31. An officer of a former institution who, pursuant to this Part, becomes an officer of the corresponding institution is not entitled to claim, both under this Act and any other Act, dual benefits of the same kind in respect of the same period of service.

10 Public servants may re-apply for positions in the Public Service

32. (1) An officer of a former institution who, immediately before the relevant commencement, was a public servant may, within the period of 3 years immediately following that commencement, apply for a position in the Public Service as if the officer were still a public servant.

- 15 (2)** An officer of a former institution who applies for such a position, or who is appointed to or employed in such a position, shall, for the purposes of—

(a) the Public Sector Management Act 1988;

- 20 (b)** the Government and Related Employees Appeal Tribunal Act 1980; and

(c) the Industrial Arbitration Act 1940,

be taken to be a public servant in relation to the application, appointment or employment.

- 25 (3)** There is no right of appeal under the Government and Related Employees Appeal Tribunal Act 1980—

(a) for a person against the filling of a position in the Public Service by an officer of a former institution; or

(b) for an officer of a former institution against the filling of a position in the Public Service by another person.

- 30 (4)** For the purposes of this section, a reference to a public servant is a reference to an officer employed within the Public Service.

Temporary staff

- 35 33. (1)** Each temporary staff member of a former institution shall, on the relevant commencement, become a temporary staff member of the corresponding institution.

Higher Education (Amalgamation) 1989

(2) A temporary staff member of a former institution who, pursuant to this section, becomes a temporary staff member of the corresponding institution shall become such a staff member on the same terms and conditions (including conditions as to remuneration) as those on which he or she was employed at the former institution immediately before the relevant commencement.

(3) Such part of the remuneration referred to in subsection (2) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 5 of the Industrial Arbitration Act 1940 until the salary is, or the wages are, lawfully varied.

Fixed term contracts

34. A fixed term contract in force, immediately before the relevant commencement, between a person and a former institution (being a contract under which the person performed services for that institution)—

- (a) shall be taken, for the remainder of its term, to be a contract in the same terms, between the person and the corresponding institution, under which the corresponding institution assumes the rights and obligations of the former institution; and
- (b) may be arbitrated, terminated or renewed in any manner provided by the contract.

Operation of Industrial Arbitration Act 1940 unaffected

35. Nothing in this Part affects the operation of the Industrial Arbitration Act 1940.

25

PART 11—GENERAL**Transfer of assets etc.**

36. (1) Subject to this Act, on and from the relevant commencement, any assets, rights, liabilities or obligations of a former institution become assets, rights, liabilities or obligations of the corresponding institution.

(2) In this section, a reference to a former institution includes, in relation to the Conservatorium of Music, a reference to—

- (a) the Board of Governors of the Conservatorium of Music; and
- (b) in relation to the assets, rights, liabilities or obligations of the Crown that relate exclusively to the Conservatorium of Music—the Crown.

Higher Education (Amalgamation) 1989

Determination of certain questions

37. (1) Any question arising in connection with the operation of this Act—

- 5 (a) as to which institution any particular item of property belongs or relates to;
- (b) as to which land is under the control and management of any particular institution;
- (c) as to which institution any assets, rights, liabilities or obligations belong or relate to; or
- 10 (d) as to which institution the employment of any staff pertains to, shall be determined by the Minister.

(2) A certificate of the Minister as to a determination under this section is, for any purpose, evidence of the matters contained in the certificate.

Students

- 15 38. (1) Each person who was, immediately before the relevant commencement, a student of a former institution enrolled in a course of study shall on that commencement (unless the student was a graduand in that course) become a student of the corresponding institution and be
- 20 enrolled in a course of study that is substantially the same as the course of study in which the student was enrolled at the former institution.

(2) The corresponding institution shall (for such period as is necessary for the purposes of this section and, in any case, until the end of the academic year next following the relevant commencement) provide such courses of study as are necessary for the purposes of this section.

- 25 (3) If a student is enrolled in a course of study pursuant to this section, the corresponding institution shall, as far as it may practicably do so, give the student credit in that course for any subject or work completed by the student in the course of study from which the student was transferred.

- (4) Students so enrolled are entitled, on satisfactory completion of their
- 30 courses, to appropriate awards conferred by the corresponding institution but may, if they so desire, instead obtain awards conferred in the name of the former institution at which they were previously enrolled.

- (5) For the purposes of subsection (4), the seal of a former institution may be affixed to any document pursuant to a resolution of the governing
- 35 body of the corresponding institution.

(6) The seal of a former institution shall, on and from the relevant commencement, be kept in the custody of such person or body as the Minister may determine.

Higher Education (Amalgamation) 1989

Saving of delegations

39. Any delegation made by the governing body of a former institution and in force immediately before the relevant commencement continues to have effect as if it were a delegation made by the governing body of the
 5 corresponding institution, but may be revoked at any time by that governing body.

Instruments exempt from stamp duty etc.

40. Any instrument that is executed for the purposes of disposing of, or otherwise dealing with, property in accordance with this Act is exempt—
 10 (a) from payment of stamp duty under the Stamp Duties Act 1920; and
 (b) from payment of any other fee or charge that would otherwise be payable under any other Act in respect of the registration of any such instrument.

Control and management of property

- 15 41. The transfer, by this Act, of the control and management of any property from a former institution to the corresponding institution does not affect any power of the person or body by whom the control and management of that property has been conferred, or of any lawful successor of that person or body—
 20 (a) to remove the control and management of that property from the corresponding institution; or
 (b) to vary the conditions subject to which the control and management of that property may be exercised by the corresponding institution,
 that could have been exercised by that person or body, or by that lawful
 25 successor, in respect of the former institution had this Act not been enacted.

Existing investments

42. Nothing in this Act affects the validity of any investment made by or on behalf of a former institution before the relevant commencement.

Construction of certain references

- 30 43. In any other Act or in any statutory instrument (including any industrial award or industrial agreement) or other document, a reference to a former institution shall, on and from the relevant commencement, be read as a reference to the corresponding institution.

*Higher Education (Amalgamation) 1989***Regulations**

44. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act and the following Acts:

- 5 University and University Colleges (Amendment) Act 1989;
 University of New England Act 1989;
 University of Newcastle Act 1989;
 University of Technology, Sydney, Act 1989.

(2) Any such provision may, if the regulations so provide, take effect from
 10 the date of assent to this Act or a later day.

(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—

- 15 (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
 (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.

20 Repeals

45. (1) The Institute of the Arts Act 1987 is repealed.

(2) The New South Wales State Conservatorium of Music Act 1965 is repealed.

Amendments

25 **46.** Each Act referred to in Schedule 1 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENTS

(Sec. 46)

Public Authorities (Financial Arrangements) Act 1987 No. 33—

30 Schedule 1 (Authorities)—

From Schedule 1, omit:

New South Wales State Conservatorium of Music.
 Northern Rivers College of Advanced Education.
 Sydney College of Advanced Education.

Higher Education (Amalgamation) 1989

SCHEDULE 1—AMENDMENTS—*continued***Public Finance and Audit Act 1983 No. 152—****Schedule 2 (Statutory Bodies)—**

From Schedule 2, omit:

- 5 Board of Governors of the New South Wales State
 Conservatorium of Music.
 New South Wales Institute of the Arts.
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