

UNIVERSITY OF NEW ENGLAND BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Higher Education (Amalgamation) Bill 1989.

The object of this Bill is to establish a new University of New England. The University is to consist of (initially) the staff and student bodies and educational facilities currently comprised in the existing University of New England, the Northern Rivers College of Advanced Education and the Armidale College of Advanced Education. The Bill contemplates further expansion of the University in the future.

The University is to be managed by a Board of Governors that includes parliamentary, official, appointed and elected members.

The Bill repeals the University of New England Act 1953.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a proclaimed day or days.

Clause 3 defines terms used in the proposed Act.

PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY

Clause 4 establishes the University.

Clause 5 provides for the incorporation of the University.

Clause 6 describes the foundation members of the University network and provides for the establishment of new network members.

Clause 7 specifies the functions of the University.

Clause 8 empowers the University, for the purpose of exercising its functions, to provide such facilities for students as it considers desirable.

University of New England 1989

**PART 3—THE BOARD OF GOVERNORS, AUTHORITIES AND OFFICERS OF
THE UNIVERSITY**

Clause 9 establishes a Board of Governors of the University. The Board consists of parliamentary, official, appointed and elected members.

Clause 10 contains provisions relating to the Chancellor of the University.

Clause 11 contains provisions relating to the Deputy Chancellor of the University.

Clause 12 provides that the Vice-Chancellor is the principal executive officer of the University.

Clause 13 creates the office of chief executive officer in respect of each member of the University network.

Clause 14 designates His Excellency the Governor as the Visitor of the University.

Clause 15 describes the University Convocation.

Clause 16 establishes an Academic Senate of the University.

Clause 17 requires the Board to set up advisory councils for network members of the University.

PART 4—FUNCTIONS OF BOARD

Division 1—General

Clause 18 provides that the Board is the governing authority of the University and specifies its principal functions.

Clause 19 invests the Board with miscellaneous powers relating to academic, staffing and other matters.

Clause 20 permits the Board to delegate its functions.

Division 2—Property

Clause 21 specifies the powers of the Board relating to property and places certain restrictions on the Board dealing with land of the University.

Clause 22 gives the Board, subject to certain restrictions, the control and management of land of the Crown on which the University is conducted.

Clause 23 provides for the resumption or appropriation of land for the benefit of the University.

Clause 24 provides for the vesting in the University of land of the Crown on which its activities are conducted.

PART 5—GENERAL

Clause 25 enables the Treasurer, with the approval of the Governor-in-Council, to advance money to the University for its temporary accommodation.

Clause 26 provides for the financial year of the University.

Clause 27 forbids religious or political discrimination in the admission of students, the conferring of degrees and awards and the appointment of staff.

University of New England 1989

Clause 28 provides for the exemption of persons, on grounds of conscience, from membership of the body corporate of the University or from Convocation.

Clause 29 enables the re-appointment or re-election of a person to any office under the proposed Act which the person has held and for which he or she is still suitably qualified and eligible.

Clause 30 provides for the use and custody of the seal of the University.

Clause 31 enables the Board, with the approval of the Governor-in-Council, to make by-laws generally for the management, good government and discipline of the University and in relation to certain specified matters.

Clause 32 enables the Board, or another authority specified in the by-laws, to make rules for the regulation of matters concerning a subject-matter specified in the by-laws.

Clause 33 provides for the recovery of charges, fees and other money due to the University.

Clause 34 repeals the University of New England Act 1953, dissolves the Council of the University of New England constituted under that Act and declares certain offices vacant.

Clause 35 is a formal provision that gives effect to the Schedule of savings and transitional provisions.

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD

Schedule 1 regulates Board membership (vacation of office etc.), procedure and other matters relating to the Board and its members.

SCHEDULE 2—POWERS OF INVESTMENT

Schedule 2 contains the following clauses relating to the powers of investment of the Board:

Clause 1 defines terms used in the Schedule.

Clause 2 provides that the terms of any trust deed or similar instrument granting money or property to the University are to be respected in so far as they restrict the power of the University to deal with the money or property concerned.

Clause 3 allows the Board to invest money and private gifts in accordance with the Public Authorities (Financial Arrangements) Act 1987 (or, if that Act at any time does not apply to the Board, then in accordance with the Trustee Act 1925 or with other arrangements approved by the Minister and the Treasurer).

Clause 4 allows the Board to maximise investment opportunities by pooling trust property for investment purposes.

Clause 5 requires an annual distribution of income from an investment of pooled property. The income is to be appropriately distributed to accounts representing individual components of the pool.

Clause 6 preserves the identity of private gifts whose proceeds have been pooled for investment.

University of New England 1989

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

Schedule 3, Part 1, establishes an interim Board of Governors.

Schedule 3, Part 2, contains miscellaneous savings and transitional provisions.

UNIVERSITY OF NEW ENGLAND BILL 1989

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY

4. Establishment of University
5. Incorporation of University
6. University network
7. Functions of University
8. Facilities to be provided for students

PART 3—THE BOARD OF GOVERNORS, AUTHORITIES AND OFFICERS OF THE UNIVERSITY

9. The Board
10. Chancellor
11. Deputy Chancellor
12. Vice-Chancellor
13. Chief executive officers of network members
14. Visitor
15. Convocation
16. Academic Senate
17. Advisory councils

PART 4—FUNCTIONS OF BOARD

Division 1—General

18. Functions of Board
19. Powers of Board
20. Delegation by Board

Division 2—Property

21. Powers of Board relating to property
22. Powers of Board over certain property vested in Crown
23. Acquisition of land
24. Grant or transfer of certain land to University

PART 5—GENERAL

25. Advance by Treasurer
26. Financial year
27. No religious test or political discrimination
28. Exemption from membership of body corporate or Convocation
29. Re-appointment or re-election
30. Seal of University
31. By-laws
32. Rules
33. Recovery of charges, fees and other money
34. Repeal etc.
35. Savings and transitional provisions

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF
THE BOARD

SCHEDULE 2—POWERS OF INVESTMENT

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

UNIVERSITY OF NEW ENGLAND BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act with respect to the constitution and functions of the University of New England; to repeal the University of New England Act 1953; and for other purposes.

University of New England 1989

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the University of New England Act 1989.

5 Commencement

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

Definitions

3. (1) In this Act—

- 10 “Board” means the Board of Governors of the University;
 “network member” means a member of the University network;
 “University” means the University of New England established by this Act;
 15 “University network” means the University network for the time being established under section 6.

(2) In this Act, a reference to a graduate of the University is a reference to a person who is the recipient of a degree or diploma, or of such other award or certificate as may be prescribed by the by-laws, conferred or awarded—

- 20 (a) by the University;
 (b) by or on behalf of any former institution that has, pursuant to the Higher Education (Amalgamation) Act 1989 or otherwise, become a network member of, or a part of, the University; or
 (c) by any predecessor of any such institution.
- 25 (3) In this Act—
 (a) a reference to a function includes a reference to a power, authority and duty; and
 (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

30 **PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY**

Establishment of University

4. A University, consisting of—
 (a) a Board of Governors;
 35 (b) Convocation;

University of New England 1989

- (c) the professors and full-time members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe; and
 - (d) the graduates and students of the University,
- 5 is established by this Act.

Incorporation of University

5. The University is a body corporate under the name of the University of New England.

University network

- 10 6. (1) The University network is a federation of—
- (a) the University of New England, Armidale;
 - (b) the University of New England, Northern Rivers; and
 - (c) such other network members as may be established from time to time under this section.
- 15 (2) The Governor may, by order published in the Gazette, establish—
- (a) an educational institution set up by the University;
 - (b) any other public educational institution or body; or
 - (c) any part of any such institution or body,
- as a member of the University network.

20 **Functions of University**

7. (1) The functions of the University (within the limits of its resources) include—
- (a) the provision of educational facilities at university standard for persons attending it through a variety of patterns, levels and modes of teaching and study, for internal and external students, and with particular attention to the needs of Northern New South Wales;
 - (b) the preservation, extension and dissemination of knowledge through scholarship, research, creative works, consultancy and internal and external teaching; and
 - (c) the conferring of the degrees of Bachelor, Master and Doctor and the awarding of diplomas and other certificates.
- 30 (2) The University has such other functions as are conferred or imposed on it by or under this or any other Act.

Facilities to be provided for students

- 35 8. The University may, for the purpose of exercising its functions, provide such facilities for its students as it considers desirable.

PART 3—THE BOARD OF GOVERNORS, AUTHORITIES AND OFFICERS OF THE UNIVERSITY

The Board

9. (1) There shall be a Board of Governors of the University.
- 5 (2) The Board shall consist of—
- (a) parliamentary members;
 - (b) official members;
 - (c) appointed members; and
 - (d) elected members.
- 10 (3) The parliamentary members comprise—
- (a) one Member of the Legislative Council elected by that Council—
 - (i) as soon as practicable after the commencement of this section and thereafter as soon as practicable after each periodic Council election within the meaning of section 3 of the Constitution Act 1902; or
 - 15 (ii) if there is a casual vacancy in the office of that member of the Board, as soon as practicable after that office becomes vacant; and
 - (b) one Member of the Legislative Assembly elected by that Assembly—
 - 20 (i) as soon as practicable after the commencement of this section and thereafter as soon as practicable after each general election of Members of the Legislative Assembly; or
 - (ii) if there is a casual vacancy in the office of that member of the Board, as soon as practicable after that office becomes vacant.
- 25 (4) The official members comprise—
- (a) the Chancellor (if the Chancellor is not otherwise a member of the Board);
 - (b) the Vice-Chancellor;
 - (c) each of the chief executive officers of the network members; and
 - 30 (d) the person for the time being holding the office of—
 - (i) presiding member of the Academic Senate (if that person is not the Vice-Chancellor); or
 - (ii) deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor).
- 35 (5) The appointed members comprise 4 persons appointed by the Minister, being persons who have, in the opinion of the Minister, an association with Northern New South Wales.
- (6) The elected members comprise—
- (a) 2 persons—

University of New England 1989

-
- (i) who are members of the academic staff of the University;
 - (ii) who have such qualifications as may be prescribed by the by-laws; and
 - (iii) who are elected in the manner prescribed by the by-laws;
- 5 (b) one person—
- (i) who is a member of the non-academic staff of the University;
 - (ii) who has such qualifications as may be prescribed by the by-laws; and
 - (iii) who is elected in the manner prescribed by the by-laws;
- 10 (c) one person—
- (i) who is a student of the University but who is not a member of the academic or non-academic staff of the University;
 - (ii) who has such qualifications as may be prescribed by the by-laws; and
 - (iii) who is elected in the manner prescribed by the by-laws; and
- 15 (d) 4 persons—
- (i) who are members of Convocation (but who are not members of the academic or non-academic staff of the University having the qualifications referred to in paragraph (a) (ii) or (b) (ii) or students of the University having the qualifications referred to in paragraph (c) (ii));
 - (ii) who have such qualifications as may be prescribed by the by-laws; and
 - (iii) who are elected in the manner prescribed by the by-laws.
- 20
- 25 (7) Schedule 1 has effect in relation to the members and procedure of the Board.

Chancellor

10. (1) The Board shall—
- (a) at its first meeting or as soon as practicable thereafter; and
 - 30 (b) whenever a vacancy in the office of Chancellor occurs, elect a person (whether or not a member of the Board) to be Chancellor of the University.
- (2) The Chancellor, unless he or she sooner resigns as Chancellor or ceases to be a member of the Board, holds office for such period (not
- 35 exceeding 4 years), and on such conditions, as may be prescribed by the by-laws.
- (3) The Chancellor has the functions conferred or imposed on the Chancellor by or under this or any other Act.

Deputy Chancellor

11. (1) The Board shall—

- (a) at its first meeting or as soon as practicable thereafter; and
- (b) whenever a vacancy in the office of Deputy Chancellor occurs,

5 elect one of its members to be Deputy Chancellor of the University.

(2) The Deputy Chancellor, unless he or she sooner resigns as Deputy Chancellor or ceases to be a member of the Board, holds office for 2 years from the date of election and on such conditions as may be prescribed by the by-laws.

10 (3) In the absence of the Chancellor, or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor has all the functions of the Chancellor.

Vice-Chancellor

12. (1) The Board shall—

- 15 (a) at its first meeting or as soon as practicable thereafter; and
 - (b) whenever a vacancy in the office of Vice-Chancellor occurs,
- appoint a person (whether a member of the Board or not) to be Vice-Chancellor of the University.

20 (2) The Vice-Chancellor holds office for such period, and on such conditions, as the Board determines.

(3) The Vice-Chancellor is the principal executive officer of the University and has such functions as are conferred or imposed on the Vice-Chancellor by or under this or any other Act.

Chief executive officers of network members

25 13. (1) The Board shall, whenever—

- (a) a new member of the University network is established; or
- (b) a vacancy in the office of chief executive officer of a member of the University network occurs,

30 appoint a person (whether a member of the Board or not) to be the chief executive officer of the network member concerned.

(2) A chief executive officer holds office for such period, and on such conditions, as the Board determines.

35 (3) A chief executive officer is responsible to the Board, through the Vice-Chancellor, for the day-to-day management of the network member and has such other functions as are conferred or imposed on the officer by or under this or any other Act.

Visitor

14. The Governor is the Visitor of the University with full authority and jurisdiction to exercise all functions pertaining to the office of Visitor.

Convocation

- 5 15. (1) Convocation shall consist of—
- (a) the members and past members of the Board;
 - (b) the graduates of the University;
 - 10 (c) the professors and full-time members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe; and
 - (d) such graduates of other universities, or other persons, as are, in accordance with the by-laws, admitted as members of Convocation.
- (2) The first meeting of Convocation shall be convened by the Vice-Chancellor.
- 15 (3) Subject to the by-laws, meetings of Convocation shall be convened and the business at the meetings shall be as determined by Convocation.
- (4) A quorum at any meeting of Convocation shall be such number of members as may be prescribed by the by-laws.
- (5) Convocation has such functions as may be prescribed by the by-laws.
- 20 (6) The Board may establish a Standing Committee and such other committees of Convocation as it considers necessary.

Academic Senate

16. (1) There shall be an Academic Senate of the University, consisting of—
- 25 (a) the Vice-Chancellor;
 - (b) each of the chief executive officers of the network members; and
 - (c) such other persons as the Board may, in accordance with the by-laws, determine.
- (2) Subject to subsection (1), the constitution and functions of the
30 Academic Senate shall be as prescribed by the by-laws.

Advisory councils

17. (1) The Board shall establish an advisory council for each network member.
- (2) An advisory council shall consist of—
- 35 (a) the chief executive officer of the network member; and
 - (b) no fewer than 10, but no more than 20, persons representing—

University of New England 1989

- (i) the members of the academic and non-academic staff of the network member;
 - (ii) the students of the network member; and
 - (iii) the community.
- 5 (3) Subject to the by-laws—
- (a) the qualifications for appointment to an advisory council;
 - (b) the manner in which a member of an advisory council is appointed;
 - (c) the term for which a member of an advisory council holds office; and
- 10 (d) the circumstances in which—
- (i) the appointment of a member of an advisory council shall be taken to have been terminated; or
 - (ii) the office of a member of an advisory council shall be taken to have been vacated,
- 15 shall be as determined by the Board.
- (4) Subject to the by-laws, the procedure of an advisory council shall be as determined by the council.
- (5) An advisory council shall advise the Board, through the chief executive officer, on matters relating to the network member in respect of
- 20 which the council is established and shall exercise such of the Board's functions as may be delegated to it by the Board.

PART 4—FUNCTIONS OF BOARD**Division 1—General****Functions of Board**

- 25 18. (1) The Board is the governing authority of the University and is responsible for—
- (a) the co-ordination of the use of the University's resources, including the monitoring of the efficiency and effectiveness of network members in their use of resources;
 - 30 (b) the distribution, among the network members, of the income of the University;
 - (c) the development of broad policies with respect to academic planning and the nature and standards of academic awards and generally defining the educational profile of the University;
 - 35 (d) the definition of the areas and responsibilities of the network members with respect to teaching, research and consultancy;
 - (e) the development of administrative and teaching facilities for the University;

University of New England 1989

- (f) liaison with government in relation to the overall resource needs of the University; and
- (g) representation of the University as occasion requires.

(2) The Board has such other functions as are conferred or imposed on it by or under this or any other Act.

Powers of Board

19. (1) The Board—

- (a) may provide such courses, and may confer such degrees and award such diplomas and other certificates, as it thinks fit;
- 10 (b) may appoint and terminate the appointment of academic and other staff of the University;
- (c) has the control and management of the affairs and concerns of the University and may act in all matters concerning the University in such manner as appears to it to be best calculated to promote the objects and interests of the University;
- 15 (d) may borrow money for the purpose of exercising any of its functions, for the renewal of loans or for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank, within such limits, to such extent and on such conditions as to security or otherwise as the Governor, on the recommendation of the Treasurer, may approve;
- 20 (e) may invest any funds belonging to or vested in the University;
- (f) may establish or participate in such trusts, companies or other incorporated bodies as it considers appropriate to promote the objects and interests of the University;
- 25 (g) may engage in the commercial development of any discovery or invention, or any intellectual property, in which the University has a right or interest;
- (h) may establish and maintain branches and colleges of the University, within the University and elsewhere;
- 30 (i) may make loans and grants to students; and
- (j) may impose fees, charges and fines.

(2) The powers of the Board under this section shall be exercised subject to the by-laws.

35 (3) Schedule 2 has effect in relation to the investment of funds by the Board.

Delegation by Board

40 20. The Board may, in relation to any matter or class of matters or in relation to any activity or function of the University, by resolution, delegate all or any of its functions (except this power of delegation) to any member or committee of the Board or to any authority or officer of the University or to any other person prescribed by the by-laws.

Division 2—Property**Powers of Board relating to property****21. (1) The Board—**

- 5 (a) may acquire by gift, bequest or devise any property for the purposes of this Act and may agree to carry out the conditions of any such gift, bequest or devise; and
- (b) has the control and management of all property at any time vested in or acquired by the University, and may, subject to this section, dispose of property in the name and on behalf of the University.

10 (2) The Board shall not, except with the approval of the Minister, alienate, mortgage, charge or demise any lands of the University.

(3) Notwithstanding subsection (2), the Board may, without the approval of the Minister, lease any lands of the University if—

- (a) the term of the lease does not exceed 21 years; and
- 15 (b) (except where the lessee is a residential college affiliated with the University) there is reserved for the whole of the term the highest rent that can reasonably be obtained.

(4) In the case of a lease of any lands of the University, or any renewal of the lease, to a residential college affiliated with the University, the lease—

- 20 (a) shall be for a term not exceeding 99 years; and
- (b) shall be at a nominal rent; and
- (c) shall contain a condition that the lease shall not be assigned and such other conditions as the Board thinks fit.

25 (5) The rule of law against remoteness of vesting does not apply to or in respect of any condition of a gift, bequest or devise to which the University has agreed.

Powers of Board over certain property vested in Crown

30 **22. (1)** Where any property used for the conduct of the University is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the Board has the control and management of that property and is responsible for its maintenance.

(2) Nothing in subsection (1) enables the Board to alienate, mortgage, charge or demise any land vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise).

35 (3) Notwithstanding subsection (2), the Board may (on behalf of the Crown or a Minister of the Crown) lease land of which it has, pursuant to this section, the control and management.

(4) Such a lease—

- (a) shall be for a term not exceeding 21 years; and

University of New England 1989

(b) shall contain a condition that the lease shall not be assigned and such other conditions as the Board thinks fit.

(5) The Board is, in the exercise of its functions under this section, subject to the control and direction of the Minister.

5 Acquisition of land

23. (1) For the purposes of this Act, the Governor may, on the recommendation of the Minister, resume or appropriate any land under Division 1 of Part 5 of the Public Works Act 1912.

10 (2) The Minister shall not make a recommendation for the purposes of this section unless satisfied that adequate provision has been or will be made for the payment by the University of compensation for the resumption or appropriation and of all necessary charges and expenses incidental to the resumption or appropriation.

15 (3) A resumption or appropriation effected pursuant to this section shall be taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Minister shall, in relation to that authorised work, be taken to be the Constructing Authority within the meaning of that Act.

20 (4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, but section 38 of that Act does, apply in relation to a resumption or appropriation under this section.

Grant or transfer of certain land to University

24. (1) If land on which the University is conducted is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the land may—

25 (a) if it is vested in the Crown—be transferred to the University subject to such trusts, conditions, covenants, provisions, exceptions and reservations as the Minister for Natural Resources thinks fit; or

30 (b) if it is vested in a Minister of the Crown—be conveyed or transferred to the University for such estate, and subject to such trusts and rights of way or other easements, as the Minister in whom the land is vested thinks fit.

(2) A conveyance, transfer or other instrument executed for the purposes of this section—

(a) is not liable to stamp duty under the Stamp Duties Act 1920; and

35 (b) may be registered under any Act without fee.

PART 5—GENERAL

Advance by Treasurer

25. The Treasurer may, with the approval of the Governor, advance to the Board money for the temporary accommodation of the University on 40 such terms and conditions in relation to repayment and interest as may be agreed upon.

Financial year

26. The financial year of the University is—

- (a) if no period is prescribed as referred to in paragraph (b)—the year commencing on 1 January; or
 5 (b) the period prescribed by the by-laws for the purposes of this section.

No religious test or political discrimination

27. A person shall not, because of his or her religious or political affiliations, views or beliefs, be denied admission as a student of the University or be ineligible to hold office in, to graduate from or to enjoy
 10 any benefit, advantage or privilege of the University.

Exemption from membership of body corporate or Convocation

28. A student or graduate of the University or a member of the staff of the University is entitled to be exempted by the Board, on grounds of conscience, from membership of the body corporate of the University or of
 15 Convocation, or both.

Re-appointment or re-election

29. Nothing in this Act prevents any person from being re-appointed or re-elected to any office under this Act if the person is eligible and otherwise qualified to hold that office.

20 Seal of University

30. The seal of the University shall be kept in such custody as the Board may direct and shall only be affixed to a document pursuant to a resolution of the Board.

By-laws

25 31. (1) The Board may make by-laws, not inconsistent with this Act, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the management, good government and discipline of the University;
 30 (b) the method of election of members of the Board (other than the parliamentary members) who are to be elected;
 (c) the manner and time of convening, holding and adjourning the meetings of the Board or Academic Senate;
 35 (d) the manner of voting (including postal voting or voting by proxy) at meetings of the Board or Academic Senate;
 (e) the functions of the presiding member of the Board or Academic Senate;
 (f) the conduct and record of business of the Board or Academic Senate;

University of New England 1989

- (g) the appointment of committees of the Board or Academic Senate;
- (h) the quorum and functions of committees of the Board or Academic Senate;
- 5 (i) the resignation of members of the Board, the Chancellor, the Deputy Chancellor or the Vice-Chancellor;
- (j) the tenure of office, stipend and functions of the Vice-Chancellor;
- (k) the designation of members of staff of the University as academic staff, non-academic staff, full-time staff, part-time staff or otherwise;
- 10 (l) the number, stipend, manner of appointment and dismissal of officers and employees of the University;
- (m) admission to, enrolment in and exclusion from courses of studies;
- (n) the payment of such fees and charges, including fines, as the Board considers necessary, including fees and charges to be paid in respect of—
 - 15 (i) entrance to the University;
 - (ii) tuition;
 - (iii) lectures and classes;
 - (iv) examinations;
 - (v) residence;
 - 20 (vi) the conferring of degrees and the awarding of diplomas and other certificates;
 - (vii) the provision of amenities and services, whether or not of an academic nature; and
 - (viii) an organisation of students or of students and other persons;
- 25 (o) the exemption from, or deferment of, payment of fees and charges, including fines;
- (p) without limiting the operations of paragraphs (n) and (o), the imposition and payment of penalties for parking and traffic infringements;
- 30 (q) the courses of lectures or studies for, the assessments for, and the granting of, degrees, diplomas, certificates and honours and the attendance of candidates for degrees, diplomas, certificates and honours;
- (r) the assessments for, and the granting of, fellowships, scholarships, 35 exhibitions, bursaries and prizes;
- (s) the admission of students and former students of other universities and institutions of higher education to any status within the University or the granting to graduates of such universities or institutions, or to other persons, of degrees or diplomas without 40 examination;

University of New England 1989

- (t) the establishment and conduct of places of accommodation for students (including residential colleges and halls of residence within the University) and the affiliation of residential colleges;
- 5 (u) the affiliation with the University of any educational or research establishment;
- (v) the creation of faculties, schools, departments, centres or other entities within the University;
- (w) the provision of schemes of superannuation for the officers and employees of the University;
- 10 (x) the form and use of academic costume;
- (y) the form and use of an emblem of the University or of any network member or other body within or associated with the University;
- (z) the use of the seal of the University.
- (2) A by-law has no effect unless it has been approved by the Governor.

15 Rules

32. (1) The by-laws may empower any authority (including the Board) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for regulating, or providing for the regulation of, any specified matter with respect to which by-laws may be made.
- 20 (2) Any such rule—
- (a) shall have the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Board or by the authority or officer of the University empowered to make such a rule.

25 Recovery of charges, fees and other money

33. Any charge, fee or money due to the University under this Act may be recovered as a debt in any court of competent jurisdiction.

Repeal etc.

34. (1) The University of New England Act 1953 is repealed.
- 30 (2) The Council of the University of New England, as constituted immediately before the repeal of the University of New England Act 1953, is dissolved.
- 35 (3) The persons holding office as members of the Council, Chancellor, Deputy Chancellor and Vice-Chancellor immediately before the repeal of the University of New England Act 1953 cease to hold office as such on that repeal.

Savings and transitional provisions

35. Schedule 3 has effect.

**SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF THE BOARD**

5

(Sec. 9)

Term of office

1. Subject to this Act, a member of the Board holds office—
 - (a) in the case of a parliamentary member, until a member of the House of Parliament that elected the member is elected as a replacement;
 - 10 (b) in the case of an official member, while the member holds the office by virtue of which he or she is a member;
 - (c) in the case of an appointed member, for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment;
 - 15 (d) in the case of an elected member referred to in section 9 (6) (a), (b) or (c), for such term (not exceeding 2 years) as may be prescribed by the by-laws; and
 - (e) in the case of an elected member referred to in section 9 (6) (d), for such term (not exceeding 4 years) as may be prescribed by the by-laws.

Vacation of office

2. The office of a member of the Board becomes vacant if the member—
 - 20 (a) dies;
 - (b) declines to act;
 - (c) resigns the office by writing under his or her hand addressed—
 - (i) in the case of the parliamentary member who is a Member of the Legislative Council, to the President of the Legislative Council;
 - 25 (ii) in the case of the parliamentary member who is a Member of the Legislative Assembly, to the Speaker of the Legislative Assembly;
 - (iii) in the case of an appointed member, to the Minister; or
 - (iv) in the case of an elected member, to the Vice-Chancellor;
 - 30 (d) in the case of an appointed or elected member, becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her remuneration for their benefit;
 - (e) in the case of an appointed or elected member, becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - 35 (f) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable;
 - 40 (g) in the case of an appointed or elected member, is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, and is not, within 6 weeks after the last of those meetings, excused by the Board for his or her absence;

*University of New England 1989*SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD—*continued*

- (h) in the case of the parliamentary member elected by the Legislative Council—
- (i) ceases to be a Member of that Council otherwise than by reason of section 22B (1) (c) of the Constitution Act 1902; or
 - 5 (ii) ceases to be a Member of that Council by reason of section 22B (1) (c) of that Act and does not become a candidate at the next periodic Council election within the meaning of section 3 of that Act or, as the case may be, becomes a candidate but is not elected;
- (i) in the case of the parliamentary member elected by the Legislative Assembly—
- 10 (i) ceases to be a Member of that Assembly otherwise than by reason of its dissolution or its expiration by effluxion of time; or
 - (ii) ceases to be a Member of that Assembly by reason of its dissolution or its expiration by effluxion of time and does not become a candidate at the next general election of Members of that Assembly or, as the case may be, becomes a candidate but is not elected;
- 15 (j) in the case of an elected member, ceases to be qualified for election; or
- (k) in the case of an appointed member, is removed from office by the Minister.

Filling of vacancy in office of member

3. (1) If the office of an appointed or elected member of the Board becomes vacant, a person shall, subject to this Act and the by-laws, be appointed or elected to fill the
20 vacancy.

(2) The by-laws may provide that, in such circumstances (other than expiration of term of office) as may be prescribed, a person shall be appointed or elected in such manner as may be prescribed instead of in the manner provided for by this Act.

Committees of the Board

25 4. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Board.

30 (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

Liability of Board members and others

5. No matter or thing done by—

- (a) the University, the Board or a member of the Board; or
 - 35 (b) any person acting under the direction of the University or the Board,
- shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member of the Board or a person so acting personally to any action, liability, claim or demand.

General procedure

40 6. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the by-laws, be as determined by the Board.

University of New England 1989

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF
THE BOARD—*continued*

Presiding member

7. (1) The Chancellor shall preside at all meetings of the Board at which the Chancellor is present.

(2) At any meeting of the Board at which the Chancellor is not present, the Deputy Chancellor shall preside and, in the absence of both the Chancellor and the Deputy Chancellor, a member elected by and from the members present shall preside.

(3) Except as provided by subclause (4), at the meetings of a committee constituted by the Board a member appointed by the Board (or, if no member is so appointed, a member elected by and from the members present) shall preside.

10 (4) At any meeting of a committee constituted by the Board at which the Chancellor is present, the Chancellor is entitled, if he or she so desires, to preside at that meeting.

Quorum

8. At any meeting of the Board, a majority of the total number of members for the time being of the Board constitutes a quorum.

15 Voting

9. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

SCHEDULE 2—POWERS OF INVESTMENT

(Sec. 19)

20 Definitions

1. In this Schedule—

“class A funds” means—

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

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

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

(b) grants; or

(c) student tuition fees;

30 “class B funds” means money held by the University which is not class A funds;

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

(a) the State of New South Wales; or

(b) the Commonwealth,

35 or any part of that money;

“investment pool” means an investment pool established by the Board under this Schedule;

“pooled item” means—

(a) a private gift;

University of New England 1989

SCHEDULE 2—POWERS OF INVESTMENT—*continued*

- (b) a grant;
- (c) student tuition fees;
- (d) class B funds;
- (e) securities; or
- 5 (f) real property,

forming part of an investment pool;

“private gift” means—

- (a) money, not being a grant, given to the University;
- (b) money obtained from the conversion of property given to the University; or
- 10 (c) money obtained from the investment or use of property given to the University;

“securities” means debentures, stocks, shares, bonds and notes.

Terms of trust to prevail

2. The terms of—

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

instrument creating a trust with respect to that property,

have effect despite clauses 3, 4 and 5.

20 Investment of money

3. The Board may invest any class A funds or class B funds held by the University—

- (a) in such manner as may be authorised by the Public Authorities (Financial
- Arrangements) Act 1987; or
- (b) at any time at which the Public Authorities (Financial Arrangements) Act 1987
- 25 does not apply to the Board so as to authorise any such investment—
- (i) in accordance with and subject to the Trustee Act 1925; or
- (ii) in any other manner approved by the Minister with the concurrence of the
- Treasurer.

Investment pools

30 4. (1) The Board may establish and maintain one or more investment pools for the collective investment of property held by the University.

(2) The Board may from time to time—

- (a) bring into or withdraw from an investment pool the whole or any part of any
- class A funds or class B funds held by the University; or
- 35 (b) bring into an investment pool—
- (i) securities, other than securities in respect of which the donor has, in an
- instrument creating a trust in respect of those securities, specified that the
- income from those securities is to be applied for a purpose other than the
- general purposes of the University; or

University of New England 1989

SCHEDULE 2—POWERS OF INVESTMENT—*continued*

- (ii) real property, other than real property in respect of which the donor has, in an instrument creating a trust in respect of that real property, specified that the income from that real property is to be applied for a purpose other than the general purposes of the University,
- 5 or withdraw money to the value attributed equitably to those securities or that real property by the Board at the date of withdrawal.
- (3) The Board shall not bring into or retain in any investment pool the whole or any part of any class A funds if the investments in which the capital of the investment pool is invested are not investments made in accordance with and subject to the Trustee Act
- 10 1925.

Distribution of income of investment pools

5. (1) The Board shall, at least once a year, distribute the income of an investment pool.
- (2) On the distribution of the income of an investment pool, the Board shall, in respect
- 15 of—
- (a) a pooled item being a private gift where the donor of the private gift has, in an instrument creating a trust in respect of the private gift—
- (i) specified that the income from the investment of the private gift is to be applied for a purpose other than the general purposes of the University; or
- 20 (ii) specified that the private gift is to be applied for a purpose other than the general purposes of the University and the private gift is insufficient, without the addition of the income from the investment of the private gift, to achieve that purpose; and
- (b) any other pooled item in respect of which the Board is otherwise required to do
- 25 so,
- credit the income of the investment pool to the account kept by it in respect of the private gift or other pooled item proportionately according to—
- (c) the value attributed equitably to the private gift or other pooled item by the Board at the date of distribution; and
- 30 (d) the period for which the private gift or other pooled item has formed part of the investment pool since the date of the last preceding distribution of the income of the investment pool.
- (3) If the Board distributes the income of an investment pool, it may, in respect of a pooled item (other than a pooled item referred to in subclause (2) (a) or (b)) credit the
- 35 income of the investment pool to any account kept by it.

Nature of private gift etc. not affected by pooling

6. (1) The inclusion in an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) does not affect the identity of the pooled item as a private gift, a grant, student tuition fees or class B funds.
- 40 (2) The inclusion in an investment pool of a pooled item does not affect any trust to which the pooled item was subject immediately before its inclusion in the investment pool.

*University of New England 1989*SCHEDULE 2—POWERS OF INVESTMENT—*continued*

(3) On the withdrawal from an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) the pooled item shall continue to be subject to any trust to which it was subject immediately before its inclusion in the investment pool.

- 5 (4) On the withdrawal from an investment pool of money to the value attributed to any securities or real property by the Board under clause 4 (2) (b), that money shall be subject to any trust to which those securities were subject, or to which that real property was subject, immediately before its inclusion in the investment pool.

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

10

(Sec. 35)

Part 1—Interim Board**Interim Board of the University**

1. (1) Pending the commencement of section 9, the Board shall consist of—
- 15 (a) the Chancellor (if the Chancellor is not otherwise a member of the Board);
- (b) the Vice-Chancellor;
- (c) the person for the time being holding the office of—
- 20 (i) presiding member of the Academic Senate (if that person is not the Vice-Chancellor); or
- (ii) deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor);
- (d) the person who held office immediately before the commencement of this clause as the Vice-Chancellor of the University of New England;
- (e) the person who held office immediately before the commencement of this clause as the Principal of the Armidale College of Advanced Education;
- 25 (f) the person who held office immediately before the commencement of this clause as the Principal of the Northern Rivers College of Advanced Education; and
- (g) not more than 15 persons appointed by the Minister.
- (2) The members of the Board shall, subject to this Act, hold office until the Board is duly constituted under section 9.
- 30 (3) The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.
- (4) A member of the Board designated by the Minister shall preside at all meetings of the Board until the election of the first Chancellor of the University.
- 35 (5) The Board shall make all necessary by-laws and take all necessary steps to ensure, as far as possible, that a Board is duly constituted under section 9 so as to take office within 12 months after the commencement of this clause or within such extended time as is specified in a proclamation at any time during that period of 12 months.
- (6) The provisions of this Act (except clause 1 of Schedule 1) applicable to the Board or the members of the Board apply to the Board as constituted in accordance with this clause or the members holding office under this clause.
- 40

*University of New England 1989*SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Chancellor**

2. (1) The Board constituted under this Part shall—
- (a) at its first meeting or as soon as practicable thereafter; and
 - (b) whenever a vacancy in the office of Chancellor occurs,
- 5 elect a person (whether or not a member of the Board) to be Chancellor of the University.
- (2) The Chancellor elected under this clause shall, subject to this Act, hold office until a Chancellor is duly elected under section 10.
- (3) Section 10 (1) and (2) do not apply to or in respect of the Chancellor elected under this clause.

10 Deputy Chancellor

3. (1) The Board constituted under this Part shall—
- (a) at its first meeting or as soon as practicable thereafter; and
 - (b) whenever a vacancy in the office of Deputy Chancellor occurs,
- elect one of its members to be Deputy Chancellor of the University.
- 15 (2) The Deputy Chancellor elected under this clause shall, subject to this Act, hold office until a Deputy Chancellor is duly elected under section 11.
- (3) Section 11 (1) and (2) do not apply to or in respect of the Deputy Chancellor elected under this clause.

Acting Vice-Chancellor

- 20 4. (1) If at its first meeting the Board does not appoint a person to be Vice-Chancellor, the Board may, at that meeting or subsequently, appoint a person to act as Vice-Chancellor pending the appointment of a Vice-Chancellor.
- (2) Until the appointment of a Vice-Chancellor, a person appointed to act as Vice-Chancellor has all the functions of the Vice-Chancellor, except as provided by subclause
- 25 (3).
- (3) A person acting as Vice-Chancellor by appointment under this clause is not a member of the Board, and has none of the functions of a Board member.

Part 2—Savings**University a continuation of the old University**

- 30 5. The University is a continuation of, and the same legal entity as, the University of New England established by the University of New England Act 1953.

First chief executive officers of network members

6. The persons who, immediately before the commencement of this clause, held office as the Vice-Chancellor of the University of New England and the Principal of the
- 35 Northern Rivers College of Advanced Education shall respectively be the chief executive officers of the corresponding members of the University network.

Convocation

7. (1) Convocation includes—

University of New England 1989

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (a) past members of the governing body of any of the former institutions that have, pursuant to the Higher Education (Amalgamation) Act 1989 or otherwise, become network members of, or a part of, the University; and
- (b) graduates of any of those institutions.

5 (2) In this clause, a reference to a former institution includes a reference to any predecessor of the institution.

Saving of delegations

10 8. Any delegation made or taken to have been made by the Council of the University of New England, under the University of New England Act 1953, shall be taken to be a delegation under this Act by the Board.

Existing investments

9. Nothing in this Act affects the validity of any investment made on behalf of the University before the commencement of Schedule 2.

By-laws

15 10. Any by-laws in force immediately before the commencement of this clause under the University of New England Act 1953—

- (a) continue in force as if they had been made by the Board; and
- (b) may be amended and revoked accordingly.

University of New England, Northern Rivers, to be assured representation on the Board

20 11. (1) This clause applies for the period beginning on the commencement of section 9 and ending on the date occurring 3 years after that commencement.

(2) One of the 4 persons to be elected pursuant to section 9 (6) (d) shall be elected from such of the members of Convocation as are—

- 25 (a) graduates of the University of New England, Northern Rivers;
- (b) graduates of the University who have been students at the University of New England, Northern Rivers, for at least 12 months; or
- (c) members of the academic staff of the University (other than academic staff having the qualifications referred to in section 9 (6) (a) (ii)) who are employed at the University of New England, Northern Rivers.

30 (3) There shall be an additional elected member of the Board—

- (a) who is a member of the academic staff of the University employed at the University of New England, Northern Rivers;
- (b) who has the qualifications referred to in section 9 (6) (a) (ii); and
- (c) who is elected in the manner referred to in section 9 (6) (a) (iii).

35 (4) Subject to subclause (5), the member of the Board elected pursuant to subclause (3) shall be taken to be an elected member of the Board.

(5) Without limiting the other provisions of this Act with respect to vacation of office, a member of the Board elected pursuant to subclause (3) shall cease to hold office at the end of 3 years after the commencement of section 9.

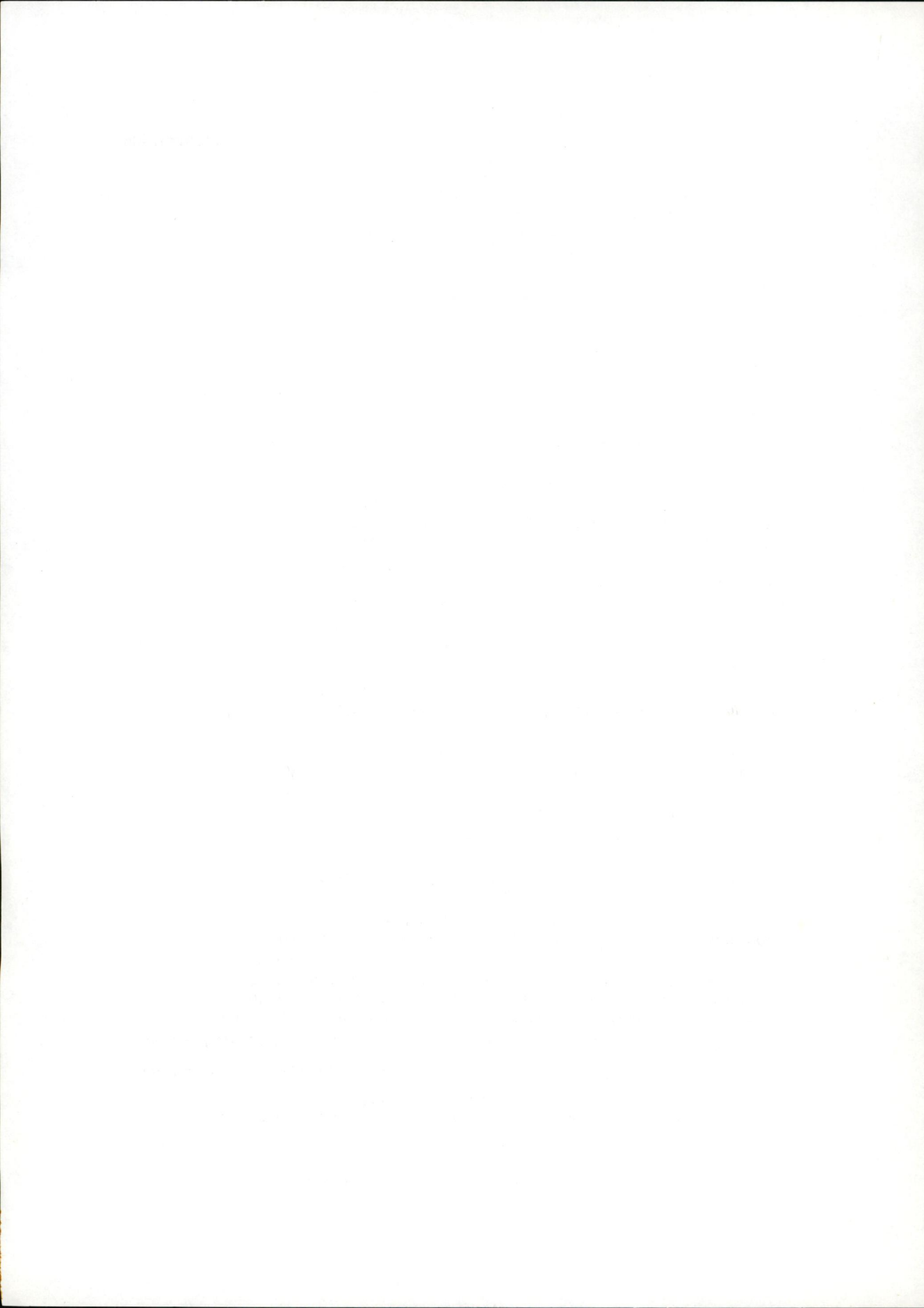
UNIVERSITY OF NEW ENGLAND BILL

Schedule of amendments referred to in Legislative Council's Message of 9 May 1989

No. 1.—Page 20, Schedule 3, line 24. Omit “and”.

No. 2.—Page 20, Schedule 3, line 25. Omit all words on that line, insert instead:

- (f) one person from each of the constituent bodies (that is, the University of New England, the Armidale College of Advanced Education and the Northern Rivers College of Advanced Education), being in each case a person—
 - (i) who was a member of the academic staff of the relevant body immediately before the commencement of this clause;
 - (ii) who has such qualifications as may be prescribed by the regulations under the Higher Education (Amalgamation) Act 1989; and
 - (iii) who is elected in the manner prescribed by those regulations;
 - (g) one person from each of the constituent bodies referred to in paragraph (f), being in each case a person—
 - (i) who was a member of the non-academic staff of the relevant body immediately before the commencement of this clause;
 - (ii) who has such qualifications as may be prescribed by the regulations under the Higher Education (Amalgamation) Act 1989; and
 - (iii) who is elected in the manner prescribed by those regulations;
 - (h) one person from each of the constituent bodies referred to in paragraph (f), being in each case a person—
 - (i) who was a student of the relevant body, but who was not a member of the academic or non-academic staff of that body, immediately before the commencement of this clause;
 - (ii) who has such qualifications as may be prescribed by the regulations under the Higher Education (Amalgamation) Act 1989; and
 - (iii) who is elected in the manner prescribed by those regulations; and
 - (i) not more than 6 persons appointed by the Minister.
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UNIVERSITY OF NEW ENGLAND ACT 1989 No. 67

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY

4. Establishment of University
5. Incorporation of University
6. University network
7. Functions of University
8. Facilities to be provided for students

PART 3—THE BOARD OF GOVERNORS, AUTHORITIES AND OFFICERS OF THE UNIVERSITY

9. The Board
10. Chancellor
11. Deputy Chancellor
12. Vice-Chancellor
13. Chief executive officers of network members
14. Visitor
15. Convocation
16. Academic Senate
17. Advisory councils

PART 4—FUNCTIONS OF BOARD

Division 1—General

18. Functions of Board
19. Powers of Board
20. Delegation by Board

Division 2—Property

21. Powers of Board relating to property
22. Powers of Board over certain property vested in Crown
23. Acquisition of land
24. Grant or transfer of certain land to University

University of New England 1989

PART 5—GENERAL

25. Advance by Treasurer
26. Financial year
27. No religious test or political discrimination
28. Exemption from membership of body corporate or Convocation
29. Re-appointment or re-election
30. Seal of University
31. By-laws
32. Rules
33. Recovery of charges, fees and other money
34. Repeal etc.
35. Savings and transitional provisions

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF
THE BOARD

SCHEDULE 2—POWERS OF INVESTMENT

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

UNIVERSITY OF NEW ENGLAND ACT 1989 No. 67

NEW SOUTH WALES



Act No. 67, 1989

An Act with respect to the constitution and functions of the University of New England; to repeal the University of New England Act 1953; and for other purposes. [Assented to 23 May 1989]

University of New England 1989

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the University of New England Act 1989.

Commencement

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

Definitions

3. (1) In this Act—

“Board” means the Board of Governors of the University;

“network member” means a member of the University network;

“University” means the University of New England established by this Act;

“University network” means the University network for the time being established under section 6.

(2) In this Act, a reference to a graduate of the University is a reference to a person who is the recipient of a degree or diploma, or of such other award or certificate as may be prescribed by the by-laws, conferred or awarded—

(a) by the University;

(b) by or on behalf of any former institution that has, pursuant to the Higher Education (Amalgamation) Act 1989 or otherwise, become a network member of, or a part of, the University; or

(c) by any predecessor of any such institution.

- (3) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**PART 2—CONSTITUTION AND FUNCTIONS OF THE
UNIVERSITY**

Establishment of University

4. A University, consisting of—

(a) a Board of Governors;

(b) Convocation;

University of New England 1989

- (c) the professors and full-time members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe; and
 - (d) the graduates and students of the University,
- is established by this Act.

Incorporation of University

5. The University is a body corporate under the name of the University of New England.

University network

6. (1) The University network is a federation of—
- (a) the University of New England, Armidale;
 - (b) the University of New England, Northern Rivers; and
 - (c) such other network members as may be established from time to time under this section.
- (2) The Governor may, by order published in the Gazette, establish—
- (a) an educational institution set up by the University;
 - (b) any other public educational institution or body; or
 - (c) any part of any such institution or body,
- as a member of the University network.

Functions of University

7. (1) The functions of the University (within the limits of its resources) include—
- (a) the provision of educational facilities at university standard for persons attending it through a variety of patterns, levels and modes of teaching and study, for internal and external students, and with particular attention to the needs of Northern New South Wales;
 - (b) the preservation, extension and dissemination of knowledge through scholarship, research, creative works, consultancy and internal and external teaching; and
 - (c) the conferring of the degrees of Bachelor, Master and Doctor and the awarding of diplomas and other certificates.
- (2) The University has such other functions as are conferred or imposed on it by or under this or any other Act.

Facilities to be provided for students

8. The University may, for the purpose of exercising its functions, provide such facilities for its students as it considers desirable.

PART 3—THE BOARD OF GOVERNORS, AUTHORITIES AND OFFICERS OF THE UNIVERSITY**The Board**

9. (1) There shall be a Board of Governors of the University.
- (2) The Board shall consist of—
- (a) parliamentary members;
 - (b) official members;
 - (c) appointed members; and
 - (d) elected members.
- (3) The parliamentary members comprise—
- (a) one Member of the Legislative Council elected by that Council—
 - (i) as soon as practicable after the commencement of this section and thereafter as soon as practicable after each periodic Council election within the meaning of section 3 of the Constitution Act 1902; or
 - (ii) if there is a casual vacancy in the office of that member of the Board, as soon as practicable after that office becomes vacant; and
 - (b) one Member of the Legislative Assembly elected by that Assembly—
 - (i) as soon as practicable after the commencement of this section and thereafter as soon as practicable after each general election of Members of the Legislative Assembly; or
 - (ii) if there is a casual vacancy in the office of that member of the Board, as soon as practicable after that office becomes vacant.
- (4) The official members comprise—
- (a) the Chancellor (if the Chancellor is not otherwise a member of the Board);
 - (b) the Vice-Chancellor;
 - (c) each of the chief executive officers of the network members; and
 - (d) the person for the time being holding the office of—
 - (i) presiding member of the Academic Senate (if that person is not the Vice-Chancellor); or
 - (ii) deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor).
- (5) The appointed members comprise 4 persons appointed by the Minister, being persons who have, in the opinion of the Minister, an association with Northern New South Wales.
- (6) The elected members comprise—
- (a) 2 persons—

University of New England 1989

- (i) who are members of the academic staff of the University;
- (ii) who have such qualifications as may be prescribed by the by-laws; and
- (iii) who are elected in the manner prescribed by the by-laws;
- (b) one person—
 - (i) who is a member of the non-academic staff of the University;
 - (ii) who has such qualifications as may be prescribed by the by-laws; and
 - (iii) who is elected in the manner prescribed by the by-laws;
- (c) one person—
 - (i) who is a student of the University but who is not a member of the academic or non-academic staff of the University;
 - (ii) who has such qualifications as may be prescribed by the by-laws; and
 - (iii) who is elected in the manner prescribed by the by-laws; and
- (d) 4 persons—
 - (i) who are members of Convocation (but who are not members of the academic or non-academic staff of the University having the qualifications referred to in paragraph (a) (ii) or (b) (ii) or students of the University having the qualifications referred to in paragraph (c) (ii));
 - (ii) who have such qualifications as may be prescribed by the by-laws; and
 - (iii) who are elected in the manner prescribed by the by-laws.

(7) Schedule 1 has effect in relation to the members and procedure of the Board.

Chancellor

10. (1) The Board shall—

- (a) at its first meeting or as soon as practicable thereafter; and
- (b) whenever a vacancy in the office of Chancellor occurs,

elect a person (whether or not a member of the Board) to be Chancellor of the University.

(2) The Chancellor, unless he or she sooner resigns as Chancellor or ceases to be a member of the Board, holds office for such period (not exceeding 4 years), and on such conditions, as may be prescribed by the by-laws.

(3) The Chancellor has the functions conferred or imposed on the Chancellor by or under this or any other Act.

University of New England 1989

Deputy Chancellor

11. (1) The Board shall—

- (a) at its first meeting or as soon as practicable thereafter; and
 - (b) whenever a vacancy in the office of Deputy Chancellor occurs,
- elect one of its members to be Deputy Chancellor of the University.

(2) The Deputy Chancellor, unless he or she sooner resigns as Deputy Chancellor or ceases to be a member of the Board, holds office for 2 years from the date of election and on such conditions as may be prescribed by the by-laws.

(3) In the absence of the Chancellor, or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor has all the functions of the Chancellor.

Vice-Chancellor

12. (1) The Board shall, whenever a vacancy in the office of Vice-Chancellor occurs, appoint a person (whether a member of the Board or not) to be Vice-Chancellor of the University.

(2) The Vice-Chancellor holds office for such period, and on such conditions, as the Board determines.

(3) The Vice-Chancellor is the principal executive officer of the University and has such functions as are conferred or imposed on the Vice-Chancellor by or under this or any other Act.

Chief executive officers of network members

13. (1) The Board shall, whenever—

- (a) a new member of the University network is established; or
- (b) a vacancy in the office of chief executive officer of a member of the University network occurs,

appoint a person (whether a member of the Board or not) to be the chief executive officer of the network member concerned.

(2) A chief executive officer holds office for such period, and on such conditions, as the Board determines.

(3) A chief executive officer is responsible to the Board, through the Vice-Chancellor, for the day-to-day management of the network member and has such other functions as are conferred or imposed on the officer by or under this or any other Act.

Visitor

14. The Governor is the Visitor of the University with full authority and jurisdiction to exercise all functions pertaining to the office of Visitor.

Convocation

15. (1) Convocation shall consist of—

- (a) the members and past members of the Board;
- (b) the graduates of the University;
- (c) the professors and full-time members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe; and
- (d) such graduates of other universities, or other persons, as are, in accordance with the by-laws, admitted as members of Convocation.

(2) The first meeting of Convocation shall be convened by the Vice-Chancellor.

(3) Subject to the by-laws, meetings of Convocation shall be convened and the business at the meetings shall be as determined by Convocation.

(4) A quorum at any meeting of Convocation shall be such number of members as may be prescribed by the by-laws.

(5) Convocation has such functions as may be prescribed by the by-laws.

(6) The Board may establish a Standing Committee and such other committees of Convocation as it considers necessary.

Academic Senate

16. (1) There shall be an Academic Senate of the University, consisting of—

- (a) the Vice-Chancellor;
- (b) each of the chief executive officers of the network members; and
- (c) such other persons as the Board may, in accordance with the by-laws, determine.

(2) Subject to subsection (1), the constitution and functions of the Academic Senate shall be as prescribed by the by-laws.

Advisory councils

17. (1) The Board shall establish an advisory council for each network member.

(2) An advisory council shall consist of—

- (a) the chief executive officer of the network member; and
- (b) no fewer than 10, but no more than 20, persons representing—
 - (i) the members of the academic and non-academic staff of the network member;
 - (ii) the students of the network member; and
 - (iii) the community.

(3) Subject to the by-laws—

- (a) the qualifications for appointment to an advisory council;
- (b) the manner in which a member of an advisory council is appointed;
- (c) the term for which a member of an advisory council holds office; and
- (d) the circumstances in which—
 - (i) the appointment of a member of an advisory council shall be taken to have been terminated; or
 - (ii) the office of a member of an advisory council shall be taken to have been vacated,

shall be as determined by the Board.

(4) Subject to the by-laws, the procedure of an advisory council shall be as determined by the council.

(5) An advisory council shall advise the Board, through the chief executive officer, on matters relating to the network member in respect of which the council is established and shall exercise such of the Board's functions as may be delegated to it by the Board.

PART 4—FUNCTIONS OF BOARD

Division 1—General

Functions of Board

18. (1) The Board is the governing authority of the University and is responsible for—

- (a) the co-ordination of the use of the University's resources, including the monitoring of the efficiency and effectiveness of network members in their use of resources;
- (b) the distribution, among the network members, of the income of the University;
- (c) the development of broad policies with respect to academic planning and the nature and standards of academic awards and generally defining the educational profile of the University;
- (d) the definition of the areas and responsibilities of the network members with respect to teaching, research and consultancy;
- (e) the development of administrative and teaching facilities for the University;
- (f) liaison with government in relation to the overall resource needs of the University; and
- (g) representation of the University as occasion requires.

(2) The Board has such other functions as are conferred or imposed on it by or under this or any other Act.

Powers of Board**19. (1) The Board—**

- (a) may provide such courses, and may confer such degrees and award such diplomas and other certificates, as it thinks fit;
- (b) may appoint and terminate the appointment of academic and other staff of the University;
- (c) has the control and management of the affairs and concerns of the University and may act in all matters concerning the University in such manner as appears to it to be best calculated to promote the objects and interests of the University;
- (d) may borrow money for the purpose of exercising any of its functions, for the renewal of loans or for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank, within such limits, to such extent and on such conditions as to security or otherwise as the Governor, on the recommendation of the Treasurer, may approve;
- (e) may invest any funds belonging to or vested in the University;
- (f) may establish or participate in such trusts, companies or other incorporated bodies as it considers appropriate to promote the objects and interests of the University;
- (g) may engage in the commercial development of any discovery or invention, or any intellectual property, in which the University has a right or interest;
- (h) may establish and maintain branches and colleges of the University, within the University and elsewhere;
- (i) may make loans and grants to students; and
- (j) may impose fees, charges and fines.

(2) The powers of the Board under this section shall be exercised subject to the by-laws.

(3) Schedule 2 has effect in relation to the investment of funds by the Board.

Delegation by Board

20. The Board may, in relation to any matter or class of matters or in relation to any activity or function of the University, by resolution, delegate all or any of its functions (except this power of delegation) to any member or committee of the Board or to any authority or officer of the University or to any other person prescribed by the by-laws.

Division 2—Property**Powers of Board relating to property****21. (1) The Board—**

University of New England 1989

(a) may acquire by gift, bequest or devise any property for the purposes of this Act and may agree to carry out the conditions of any such gift, bequest or devise; and

(b) has the control and management of all property at any time vested in or acquired by the University, and may, subject to this section, dispose of property in the name and on behalf of the University.

(2) The Board shall not, except with the approval of the Minister, alienate, mortgage, charge or demise any lands of the University.

(3) Notwithstanding subsection (2), the Board may, without the approval of the Minister, lease any lands of the University if—

(a) the term of the lease does not exceed 21 years; and

(b) (except where the lessee is a residential college affiliated with the University) there is reserved for the whole of the term the highest rent that can reasonably be obtained.

(4) In the case of a lease of any lands of the University, or any renewal of the lease, to a residential college affiliated with the University, the lease—

(a) shall be for a term not exceeding 99 years; and

(b) shall be at a nominal rent; and

(c) shall contain a condition that the lease shall not be assigned and such other conditions as the Board thinks fit.

(5) The rule of law against remoteness of vesting does not apply to or in respect of any condition of a gift, bequest or devise to which the University has agreed.

Powers of Board over certain property vested in Crown

22. (1) Where any property used for the conduct of the University is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the Board has the control and management of that property and is responsible for its maintenance.

(2) Nothing in subsection (1) enables the Board to alienate, mortgage, charge or demise any land vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise).

(3) Notwithstanding subsection (2), the Board may (on behalf of the Crown or a Minister of the Crown) lease land of which it has, pursuant to this section, the control and management.

(4) Such a lease—

(a) shall be for a term not exceeding 21 years; and

(b) shall contain a condition that the lease shall not be assigned and such other conditions as the Board thinks fit.

University of New England 1989

(5) The Board is, in the exercise of its functions under this section, subject to the control and direction of the Minister.

Acquisition of land

23. (1) For the purposes of this Act, the Governor may, on the recommendation of the Minister, resume or appropriate any land under Division 1 of Part 5 of the Public Works Act 1912.

(2) The Minister shall not make a recommendation for the purposes of this section unless satisfied that adequate provision has been or will be made for the payment by the University of compensation for the resumption or appropriation and of all necessary charges and expenses incidental to the resumption or appropriation.

(3) A resumption or appropriation effected pursuant to this section shall be taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Minister shall, in relation to that authorised work, be taken to be the Constructing Authority within the meaning of that Act.

(4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, but section 38 of that Act does, apply in relation to a resumption or appropriation under this section.

Grant or transfer of certain land to University

24. (1) If land on which the University is conducted is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the land may—

- (a) if it is vested in the Crown—be transferred to the University subject to such trusts, conditions, covenants, provisions, exceptions and reservations as the Minister for Natural Resources thinks fit; or
- (b) if it is vested in a Minister of the Crown—be conveyed or transferred to the University for such estate, and subject to such trusts and rights of way or other easements, as the Minister in whom the land is vested thinks fit.

(2) A conveyance, transfer or other instrument executed for the purposes of this section—

- (a) is not liable to stamp duty under the Stamp Duties Act 1920; and
- (b) may be registered under any Act without fee.

PART 5—GENERAL**Advance by Treasurer**

25. The Treasurer may, with the approval of the Governor, advance to the Board money for the temporary accommodation of the University on such terms and conditions in relation to repayment and interest as may be agreed upon.

Financial year

26. The financial year of the University is—
- (a) if no period is prescribed as referred to in paragraph (b)—the year commencing on 1 January; or
 - (b) the period prescribed by the by-laws for the purposes of this section.

No religious test or political discrimination

27. A person shall not, because of his or her religious or political affiliations, views or beliefs, be denied admission as a student of the University or be ineligible to hold office in, to graduate from or to enjoy any benefit, advantage or privilege of the University.

Exemption from membership of body corporate or Convocation

28. A student or graduate of the University or a member of the staff of the University is entitled to be exempted by the Board, on grounds of conscience, from membership of the body corporate of the University or of Convocation, or both.

Re-appointment or re-election

29. Nothing in this Act prevents any person from being re-appointed or re-elected to any office under this Act if the person is eligible and otherwise qualified to hold that office.

Seal of University

30. The seal of the University shall be kept in such custody as the Board may direct and shall only be affixed to a document pursuant to a resolution of the Board.

By-laws

31. (1) The Board may make by-laws, not inconsistent with this Act, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the management, good government and discipline of the University;
- (b) the method of election of members of the Board (other than the parliamentary members) who are to be elected;
- (c) the manner and time of convening, holding and adjourning the meetings of the Board or Academic Senate;
- (d) the manner of voting (including postal voting or voting by proxy) at meetings of the Board or Academic Senate;
- (e) the functions of the presiding member of the Board or Academic Senate;
- (f) the conduct and record of business of the Board or Academic Senate;

University of New England 1989

- (g) the appointment of committees of the Board or Academic Senate;
- (h) the quorum and functions of committees of the Board or Academic Senate;
- (i) the resignation of members of the Board, the Chancellor, the Deputy Chancellor or the Vice-Chancellor;
- (j) the tenure of office, stipend and functions of the Vice-Chancellor;
- (k) the designation of members of staff of the University as academic staff, non-academic staff, full-time staff, part-time staff or otherwise;
- (l) the number, stipend, manner of appointment and dismissal of officers and employees of the University;
- (m) admission to, enrolment in and exclusion from courses of studies;
- (n) the payment of such fees and charges, including fines, as the Board considers necessary, including fees and charges to be paid in respect of—
 - (i) entrance to the University;
 - (ii) tuition;
 - (iii) lectures and classes;
 - (iv) examinations;
 - (v) residence;
 - (vi) the conferring of degrees and the awarding of diplomas and other certificates;
 - (vii) the provision of amenities and services, whether or not of an academic nature; and
 - (viii) an organisation of students or of students and other persons;
- (o) the exemption from, or deferment of, payment of fees and charges, including fines;
- (p) without limiting the operations of paragraphs (n) and (o), the imposition and payment of penalties for parking and traffic infringements;
- (q) the courses of lectures or studies for, the assessments for, and the granting of, degrees, diplomas, certificates and honours and the attendance of candidates for degrees, diplomas, certificates and honours;
- (r) the assessments for, and the granting of, fellowships, scholarships, exhibitions, bursaries and prizes;
- (s) the admission of students and former students of other universities and institutions of higher education to any status within the University or the granting to graduates of such universities or institutions, or to other persons, of degrees or diplomas without examination;

University of New England 1989

- (t) the establishment and conduct of places of accommodation for students (including residential colleges and halls of residence within the University) and the affiliation of residential colleges;
 - (u) the affiliation with the University of any educational or research establishment;
 - (v) the creation of faculties, schools, departments, centres or other entities within the University;
 - (w) the provision of schemes of superannuation for the officers and employees of the University;
 - (x) the form and use of academic costume;
 - (y) the form and use of an emblem of the University or of any network member or other body within or associated with the University;
 - (z) the use of the seal of the University.
- (2) A by-law has no effect unless it has been approved by the Governor.

Rules

32. (1) The by-laws may empower any authority (including the Board) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for regulating, or providing for the regulation of, any specified matter with respect to which by-laws may be made.

(2) Any such rule—

- (a) shall have the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Board or by the authority or officer of the University empowered to make such a rule.

Recovery of charges, fees and other money

33. Any charge, fee or money due to the University under this Act may be recovered as a debt in any court of competent jurisdiction.

Repeal etc.

34. (1) The University of New England Act 1953 is repealed.

(2) The Council of the University of New England, as constituted immediately before the repeal of the University of New England Act 1953, is dissolved.

(3) The persons holding office as members of the Council, Chancellor, Deputy Chancellor and Vice-Chancellor immediately before the repeal of the University of New England Act 1953 cease to hold office as such on that repeal.

Savings and transitional provisions

35. Schedule 3 has effect.

**SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF THE BOARD**

(Sec. 9)

Term of office

1. Subject to this Act, a member of the Board holds office—
 - (a) in the case of a parliamentary member, until a member of the House of Parliament that elected the member is elected as a replacement;
 - (b) in the case of an official member, while the member holds the office by virtue of which he or she is a member;
 - (c) in the case of an appointed member, for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment;
 - (d) in the case of an elected member referred to in section 9 (6) (a), (b) or (c), for such term (not exceeding 2 years) as may be prescribed by the by-laws; and
 - (e) in the case of an elected member referred to in section 9 (6) (d), for such term (not exceeding 4 years) as may be prescribed by the by-laws.

Vacation of office

2. The office of a member of the Board becomes vacant if the member—
 - (a) dies;
 - (b) declines to act;
 - (c) resigns the office by writing under his or her hand addressed—
 - (i) in the case of the parliamentary member who is a Member of the Legislative Council, to the President of the Legislative Council;
 - (ii) in the case of the parliamentary member who is a Member of the Legislative Assembly, to the Speaker of the Legislative Assembly;
 - (iii) in the case of an appointed member, to the Minister; or
 - (iv) in the case of an elected member, to the Vice-Chancellor;
 - (d) in the case of an appointed or elected member, becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her remuneration for their benefit;
 - (e) in the case of an appointed or elected member, becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - (f) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable;
 - (g) in the case of an appointed or elected member, is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, and is not, within 6 weeks after the last of those meetings, excused by the Board for his or her absence;

*University of New England 1989*SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD—*continued*

- (h) in the case of the parliamentary member elected by the Legislative Council—
 - (i) ceases to be a Member of that Council otherwise than by reason of section 22B (1) (c) of the Constitution Act 1902; or
 - (ii) ceases to be a Member of that Council by reason of section 22B (1) (c) of that Act and does not become a candidate at the next periodic Council election within the meaning of section 3 of that Act or, as the case may be, becomes a candidate but is not elected;
- (i) in the case of the parliamentary member elected by the Legislative Assembly—
 - (i) ceases to be a Member of that Assembly otherwise than by reason of its dissolution or its expiration by effluxion of time; or
 - (ii) ceases to be a Member of that Assembly by reason of its dissolution or its expiration by effluxion of time and does not become a candidate at the next general election of Members of that Assembly or, as the case may be, becomes a candidate but is not elected;
- (j) in the case of an elected member, ceases to be qualified for election; or
- (k) in the case of an appointed member, is removed from office by the Minister.

Filling of vacancy in office of member

3. (1) If the office of an appointed or elected member of the Board becomes vacant, a person shall, subject to this Act and the by-laws, be appointed or elected to fill the vacancy.

(2) The by-laws may provide that, in such circumstances (other than expiration of term of office) as may be prescribed, a person shall be appointed or elected in such manner as may be prescribed instead of in the manner provided for by this Act.

Committees of the Board

4. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

Liability of Board members and others

5. No matter or thing done by—

- (a) the University, the Board or a member of the Board; or
- (b) any person acting under the direction of the University or the Board,

shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member of the Board or a person so acting personally to any action, liability, claim or demand.

General procedure

6. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the by-laws, be as determined by the Board.

University of New England 1989

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF
THE BOARD—*continued*

Presiding member

7. (1) The Chancellor shall preside at all meetings of the Board at which the Chancellor is present.

(2) At any meeting of the Board at which the Chancellor is not present, the Deputy Chancellor shall preside and, in the absence of both the Chancellor and the Deputy Chancellor, a member elected by and from the members present shall preside.

(3) Except as provided by subclause (4), at the meetings of a committee constituted by the Board a member appointed by the Board (or, if no member is so appointed, a member elected by and from the members present) shall preside.

(4) At any meeting of a committee constituted by the Board at which the Chancellor is present, the Chancellor is entitled, if he or she so desires, to preside at that meeting.

Quorum

8. At any meeting of the Board, a majority of the total number of members for the time being of the Board constitutes a quorum.

Voting

9. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

SCHEDULE 2—POWERS OF INVESTMENT

(Sec. 19)

Definitions

1. In this Schedule—

“class A funds” means—

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

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

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

(b) grants; or

(c) student tuition fees;

“class B funds” means money held by the University which is not class A funds;

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

(a) the State of New South Wales; or

(b) the Commonwealth,

or any part of that money;

“investment pool” means an investment pool established by the Board under this Schedule;

“pooled item” means—

(a) a private gift;

*University of New England 1989*SCHEDULE 2—POWERS OF INVESTMENT—*continued*

- (b) a grant;
 - (c) student tuition fees;
 - (d) class B funds;
 - (e) securities; or
 - (f) real property,
- forming part of an investment pool;

“private gift” means—

- (a) money, not being a grant, given to the University;
- (b) money obtained from the conversion of property given to the University; or
- (c) money obtained from the investment or use of property given to the University;

“securities” means debentures, stocks, shares, bonds and notes.

Terms of trust to prevail

2. The terms of—

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

have effect despite clauses 3, 4 and 5.

Investment of money

3. The Board may invest any class A funds or class B funds held by the University—

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) at any time at which the Public Authorities (Financial Arrangements) Act 1987 does not apply to the Board so as to authorise any such investment—
 - (i) in accordance with and subject to the Trustee Act 1925; or
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment pools

4. (1) The Board may establish and maintain one or more investment pools for the collective investment of property held by the University.

(2) The Board may from time to time—

- (a) bring into or withdraw from an investment pool the whole or any part of any class A funds or class B funds held by the University; or
- (b) bring into an investment pool—
 - (i) securities, other than securities in respect of which the donor has, in an instrument creating a trust in respect of those securities, specified that the income from those securities is to be applied for a purpose other than the general purposes of the University; or

University of New England 1989

SCHEDULE 2—POWERS OF INVESTMENT—*continued*

- (ii) real property, other than real property in respect of which the donor has, in an instrument creating a trust in respect of that real property, specified that the income from that real property is to be applied for a purpose other than the general purposes of the University,

or withdraw money to the value attributed equitably to those securities or that real property by the Board at the date of withdrawal.

(3) The Board shall not bring into or retain in any investment pool the whole or any part of any class A funds if the investments in which the capital of the investment pool is invested are not investments made in accordance with and subject to the Trustee Act 1925.

Distribution of income of investment pools

5. (1) The Board shall, at least once a year, distribute the income of an investment pool.

(2) On the distribution of the income of an investment pool, the Board shall, in respect of—

- (a) a pooled item being a private gift where the donor of the private gift has, in an instrument creating a trust in respect of the private gift—

- (i) specified that the income from the investment of the private gift is to be applied for a purpose other than the general purposes of the University; or

- (ii) specified that the private gift is to be applied for a purpose other than the general purposes of the University and the private gift is insufficient, without the addition of the income from the investment of the private gift, to achieve that purpose; and

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

credit the income of the investment pool to the account kept by it in respect of the private gift or other pooled item proportionately according to—

- (c) the value attributed equitably to the private gift or other pooled item by the Board at the date of distribution; and

- (d) the period for which the private gift or other pooled item has formed part of the investment pool since the date of the last preceding distribution of the income of the investment pool.

(3) If the Board distributes the income of an investment pool, it may, in respect of a pooled item (other than a pooled item referred to in subclause (2) (a) or (b)) credit the income of the investment pool to any account kept by it.

Nature of private gift etc. not affected by pooling

6. (1) The inclusion in an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) does not affect the identity of the pooled item as a private gift, a grant, student tuition fees or class B funds.

(2) The inclusion in an investment pool of a pooled item does not affect any trust to which the pooled item was subject immediately before its inclusion in the investment pool.

*University of New England 1989***SCHEDULE 2—POWERS OF INVESTMENT—*continued***

(3) On the withdrawal from an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) the pooled item shall continue to be subject to any trust to which it was subject immediately before its inclusion in the investment pool.

(4) On the withdrawal from an investment pool of money to the value attributed to any securities or real property by the Board under clause 4 (2) (b), that money shall be subject to any trust to which those securities were subject, or to which that real property was subject, immediately before its inclusion in the investment pool.

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 35)

Part 1—Interim Board**Interim Board of the University**

1. (1) Pending the commencement of section 9, the Board shall consist of—
 - (a) the Chancellor (if the Chancellor is not otherwise a member of the Board);
 - (b) the Vice-Chancellor;
 - (c) the person for the time being holding the office of—
 - (i) presiding member of the Academic Senate (if that person is not the Vice-Chancellor); or
 - (ii) deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor);
 - (d) the person who held office immediately before the commencement of this clause as the Principal of the Armidale College of Advanced Education;
 - (e) the person who held office immediately before the commencement of this clause as the Principal of the Northern Rivers College of Advanced Education; and
 - (f) not more than 15 persons appointed by the Minister.
- (2) The members of the Board shall, subject to this Act, hold office until the Board is duly constituted under section 9.
- (3) The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.
- (4) A member of the Board designated by the Minister shall preside at all meetings of the Board until the election of the first Chancellor of the University.
- (5) The Board shall make all necessary by-laws and take all necessary steps to ensure, as far as possible, that a Board is duly constituted under section 9 so as to take office within 12 months after the commencement of this clause or within such extended time as is specified in a proclamation at any time during that period of 12 months.
- (6) The provisions of this Act (except clause 1 of Schedule 1) applicable to the Board or the members of the Board apply to the Board as constituted in accordance with this clause or the members holding office under this clause.

Chancellor

2. (1) The Board constituted under this Part shall—

*University of New England 1989*SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (a) at its first meeting or as soon as practicable thereafter; and
 - (b) whenever a vacancy in the office of Chancellor occurs,
- elect a person (whether or not a member of the Board) to be Chancellor of the University.

(2) The Chancellor elected under this clause shall, subject to this Act, hold office until a Chancellor is duly elected under section 10.

(3) Section 10 (1) and (2) do not apply to or in respect of the Chancellor elected under this clause.

Deputy Chancellor

3. (1) The Board constituted under this Part shall—

- (a) at its first meeting or as soon as practicable thereafter; and
 - (b) whenever a vacancy in the office of Deputy Chancellor occurs,
- elect one of its members to be Deputy Chancellor of the University.

(2) The Deputy Chancellor elected under this clause shall, subject to this Act, hold office until a Deputy Chancellor is duly elected under section 11.

(3) Section 11 (1) and (2) do not apply to or in respect of the Deputy Chancellor elected under this clause.

First Vice-Chancellor

4. (1) The first Vice-Chancellor shall be the person who, immediately before the commencement of this clause, held office as the Vice-Chancellor of the University of New England.

(2) The first Vice-Chancellor shall be taken to have been appointed for the residue of his or her term of office as Vice-Chancellor immediately before that commencement.

(3) Section 12 (2) does not apply to or in respect of the first Vice-Chancellor.

Part 2—Savings**University a continuation of the old University**

5. The University is a continuation of, and the same legal entity as, the University of New England established by the University of New England Act 1953.

First chief executive officers of network members

6. The persons who, immediately before the commencement of this clause, held office as the Vice-Chancellor of the University of New England and the Principal of the Northern Rivers College of Advanced Education shall respectively be the chief executive officers of the corresponding members of the University network.

*University of New England 1989*SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Convocation**

7. (1) Convocation includes—

- (a) past members of the governing body of any of the former institutions that have, pursuant to the Higher Education (Amalgamation) Act 1989 or otherwise, become network members of, or a part of, the University; and
- (b) graduates of any of those institutions.

(2) In this clause, a reference to a former institution includes a reference to any predecessor of the institution.

Saving of delegations

8. Any delegation made or taken to have been made by the Council of the University of New England, under the University of New England Act 1953, shall be taken to be a delegation under this Act by the Board.

Existing investments

9. Nothing in this Act affects the validity of any investment made on behalf of the University before the commencement of Schedule 2.

By-laws

10. Any by-laws in force immediately before the commencement of this clause under the University of New England Act 1953—

- (a) continue in force as if they had been made by the Board; and
- (b) may be amended and revoked accordingly.

University of New England, Northern Rivers, to be assured representation on the Board

11. (1) This clause applies for the period beginning on the commencement of section 9 and ending on the date occurring 3 years after that commencement.

(2) One of the 4 persons to be elected pursuant to section 9 (6) (d) shall be elected from such of the members of Convocation as are—

- (a) graduates of the University of New England, Northern Rivers;
- (b) graduates of the University who have been students at the University of New England, Northern Rivers, for at least 12 months; or
- (c) members of the academic staff of the University (other than academic staff having the qualifications referred to in section 9 (6) (a) (ii)) who are employed at the University of New England, Northern Rivers.

(3) There shall be an additional elected member of the Board—

- (a) who is a member of the academic staff of the University employed at the University of New England, Northern Rivers;
- (b) who has the qualifications referred to in section 9 (6) (a) (ii); and
- (c) who is elected in the manner referred to in section 9 (6) (a) (iii).

University of New England 1989

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

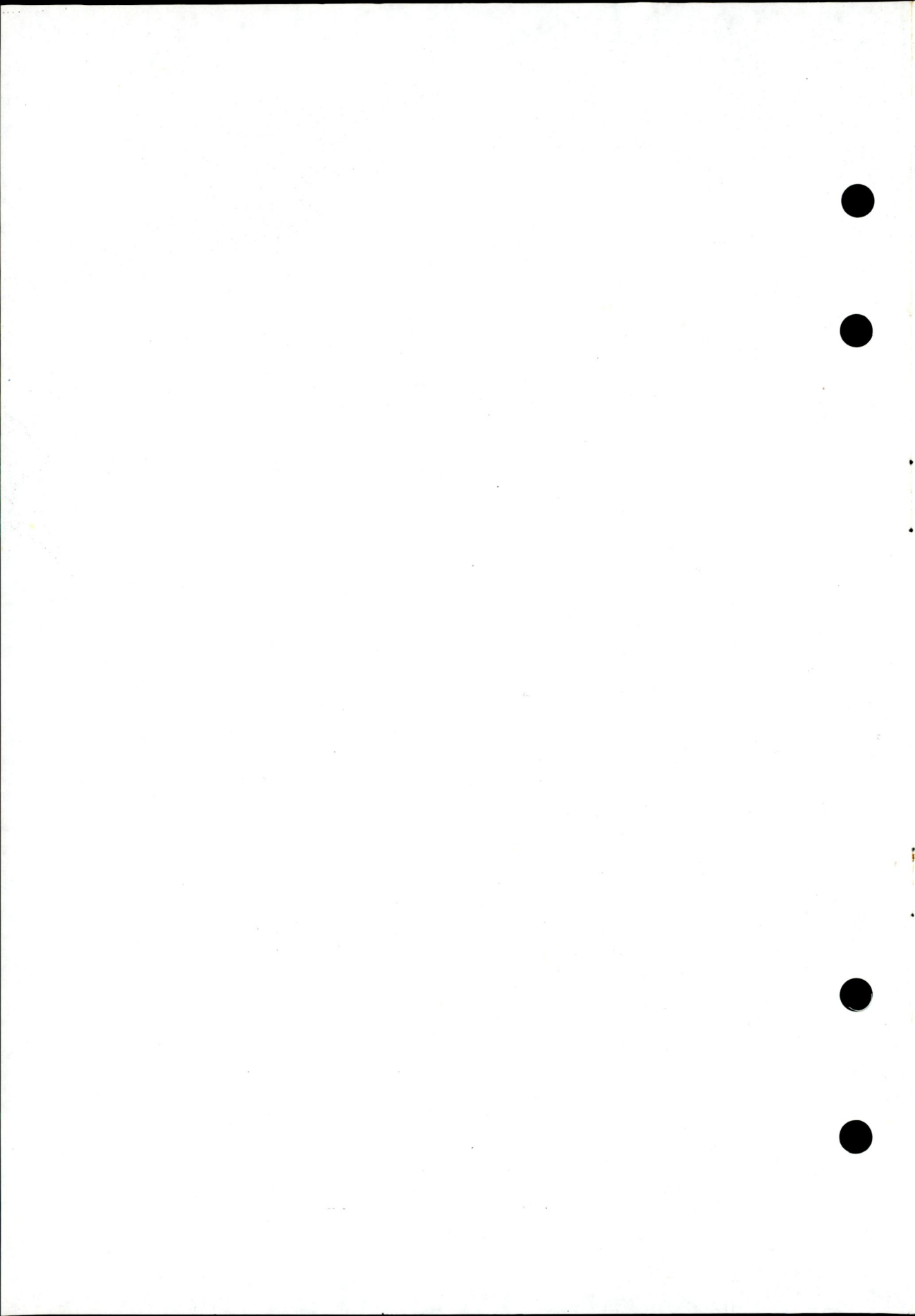
(4) Subject to subclause (5), the member of the Board elected pursuant to subclause (3) shall be taken to be an elected member of the Board.

(5) Without limiting the other provisions of this Act with respect to vacation of office, a member of the Board elected pursuant to subclause (3) shall cease to hold office at the end of 3 years after the commencement of section 9.

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







UNIVERSITY OF NEW ENGLAND BILL 1989

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY

4. Establishment of University
5. Incorporation of University
6. University network
7. Functions of University
8. Facilities to be provided for students

PART 3—THE BOARD OF GOVERNORS, AUTHORITIES AND OFFICERS OF THE UNIVERSITY

9. The Board
10. Chancellor
11. Deputy Chancellor
12. Vice-Chancellor
13. Chief executive officers of network members
14. Visitor
15. Convocation
16. Academic Senate
17. Advisory councils

PART 4—FUNCTIONS OF BOARD

Division 1—General

18. Functions of Board
19. Powers of Board
20. Delegation by Board

Division 2—Property

21. Powers of Board relating to property
22. Powers of Board over certain property vested in Crown
23. Acquisition of land
24. Grant or transfer of certain land to University

University of New England 1989

PART 5—GENERAL

- 25. Advance by Treasurer
- 26. Financial year
- 27. No religious test or political discrimination
- 28. Exemption from membership of body corporate or Convocation
- 29. Re-appointment or re-election
- 30. Seal of University
- 31. By-laws
- 32. Rules
- 33. Recovery of charges, fees and other money
- 34. Repeal etc.
- 35. Savings and transitional provisions

**SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF
THE BOARD**

SCHEDULE 2—POWERS OF INVESTMENT

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

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 with respect to the constitution and functions of the University of New England; to repeal the University of New England Act 1953; and for other purposes.

University of New England 1989

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the University of New England Act 1989.

5 Commencement

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

Definitions

3. (1) In this Act—

- 10 “Board” means the Board of Governors of the University;
 “network member” means a member of the University network;
 “University” means the University of New England established by this Act;
 15 “University network” means the University network for the time being established under section 6.

(2) In this Act, a reference to a graduate of the University is a reference to a person who is the recipient of a degree or diploma, or of such other award or certificate as may be prescribed by the by-laws, conferred or awarded—

- 20 (a) by the University;
 (b) by or on behalf of any former institution that has, pursuant to the Higher Education (Amalgamation) Act 1989 or otherwise, become a network member of, or a part of, the University; or
 (c) by any predecessor of any such institution.

- 25 (3) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
 (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

30 **PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY**

Establishment of University

4. A University, consisting of—
 (a) a Board of Governors;
 35 (b) Convocation;

University of New England 1989

- (c) the professors and full-time members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe; and
 - (d) the graduates and students of the University,
- 5 is established by this Act.

Incorporation of University

5. The University is a body corporate under the name of the University of New England.

University network

- 10 6. (1) The University network is a federation of—
- (a) the University of New England, Armidale;
 - (b) the University of New England, Northern Rivers; and
 - (c) such other network members as may be established from time to time under this section.
- 15 (2) The Governor may, by order published in the Gazette, establish—
- (a) an educational institution set up by the University;
 - (b) any other public educational institution or body; or
 - (c) any part of any such institution or body,
- as a member of the University network.

20 **Functions of University**

7. (1) The functions of the University (within the limits of its resources) include—
- (a) the provision of educational facilities at university standard for persons attending it through a variety of patterns, levels and modes of teaching and study, for internal and external students, and with particular attention to the needs of Northern New South Wales;
 - (b) the preservation, extension and dissemination of knowledge through scholarship, research, creative works, consultancy and internal and external teaching; and
 - (c) the conferring of the degrees of Bachelor, Master and Doctor and the awarding of diplomas and other certificates.
- 25
- 30 (2) The University has such other functions as are conferred or imposed on it by or under this or any other Act.

Facilities to be provided for students

- 35 8. The University may, for the purpose of exercising its functions, provide such facilities for its students as it considers desirable.

PART 3—THE BOARD OF GOVERNORS, AUTHORITIES AND OFFICERS OF THE UNIVERSITY**The Board**

9. (1) There shall be a Board of Governors of the University.
- 5 (2) The Board shall consist of—
- (a) parliamentary members;
 - (b) official members;
 - (c) appointed members; and
 - (d) elected members.
- 10 (3) The parliamentary members comprise—
- (a) one Member of the Legislative Council elected by that Council—
 - (i) as soon as practicable after the commencement of this section and thereafter as soon as practicable after each periodic Council election within the meaning of section 3 of the Constitution Act 1902; or
 - 15 (ii) if there is a casual vacancy in the office of that member of the Board, as soon as practicable after that office becomes vacant; and
 - (b) one Member of the Legislative Assembly elected by that Assembly—
 - 20 (i) as soon as practicable after the commencement of this section and thereafter as soon as practicable after each general election of Members of the Legislative Assembly; or
 - (ii) if there is a casual vacancy in the office of that member of the Board, as soon as practicable after that office becomes vacant.
- 25 (4) The official members comprise—
- (a) the Chancellor (if the Chancellor is not otherwise a member of the Board);
 - (b) the Vice-Chancellor;
 - (c) each of the chief executive officers of the network members; and
 - 30 (d) the person for the time being holding the office of—
 - (i) presiding member of the Academic Senate (if that person is not the Vice-Chancellor); or
 - (ii) deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor).
- 35 (5) The appointed members comprise 4 persons appointed by the Minister, being persons who have, in the opinion of the Minister, an association with Northern New South Wales.
- (6) The elected members comprise—
- (a) 2 persons—

University of New England 1989

-
- (i) who are members of the academic staff of the University;
 - (ii) who have such qualifications as may be prescribed by the by-laws; and
 - (iii) who are elected in the manner prescribed by the by-laws;
- 5 (b) one person—
- (i) who is a member of the non-academic staff of the University;
 - (ii) who has such qualifications as may be prescribed by the by-laws; and
 - (iii) who is elected in the manner prescribed by the by-laws;
- 10 (c) one person—
- (i) who is a student of the University but who is not a member of the academic or non-academic staff of the University;
 - (ii) who has such qualifications as may be prescribed by the by-laws; and
 - (iii) who is elected in the manner prescribed by the by-laws; and
- 15 (d) 4 persons—
- (i) who are members of Convocation (but who are not members of the academic or non-academic staff of the University having the qualifications referred to in paragraph (a) (ii) or (b) (ii) or students of the University having the qualifications referred to in paragraph (c) (ii));
 - (ii) who have such qualifications as may be prescribed by the by-laws; and
 - (iii) who are elected in the manner prescribed by the by-laws.
- 25 (7) Schedule 1 has effect in relation to the members and procedure of the Board.

Chancellor

10. (1) The Board shall—
- (a) at its first meeting or as soon as practicable thereafter; and
 - 30 (b) whenever a vacancy in the office of Chancellor occurs, elect a person (whether or not a member of the Board) to be Chancellor of the University.
- (2) The Chancellor, unless he or she sooner resigns as Chancellor or ceases to be a member of the Board, holds office for such period (not
- 35 exceeding 4 years), and on such conditions, as may be prescribed by the by-laws.
- (3) The Chancellor has the functions conferred or imposed on the Chancellor by or under this or any other Act.

Deputy Chancellor

11. (1) The Board shall—

- (a) at its first meeting or as soon as practicable thereafter; and
- (b) whenever a vacancy in the office of Deputy Chancellor occurs,

5 elect one of its members to be Deputy Chancellor of the University.

(2) The Deputy Chancellor, unless he or she sooner resigns as Deputy Chancellor or ceases to be a member of the Board, holds office for 2 years from the date of election and on such conditions as may be prescribed by the by-laws.

10 (3) In the absence of the Chancellor, or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor has all the functions of the Chancellor.

Vice-Chancellor

12. (1) The Board shall, whenever a vacancy in the office of Vice-
15 Chancellor occurs, appoint a person (whether a member of the Board or not) to be Vice-Chancellor of the University.

(2) The Vice-Chancellor holds office for such period, and on such conditions, as the Board determines.

20 (3) The Vice-Chancellor is the principal executive officer of the University and has such functions as are conferred or imposed on the Vice-Chancellor by or under this or any other Act.

Chief executive officers of network members

13. (1) The Board shall, whenever—

- (a) a new member of the University network is established; or

25 (b) a vacancy in the office of chief executive officer of a member of the University network occurs,

appoint a person (whether a member of the Board or not) to be the chief executive officer of the network member concerned.

30 (2) A chief executive officer holds office for such period, and on such conditions, as the Board determines.

(3) A chief executive officer is responsible to the Board, through the Vice-Chancellor, for the day-to-day management of the network member and has such other functions as are conferred or imposed on the officer by or under this or any other Act.

35 Visitor

14. The Governor is the Visitor of the University with full authority and jurisdiction to exercise all functions pertaining to the office of Visitor.

Convocation

15. (1) Convocation shall consist of—
- (a) the members and past members of the Board;
 - (b) the graduates of the University;
 - 5 (c) the professors and full-time members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe; and
 - (d) such graduates of other universities, or other persons, as are, in accordance with the by-laws, admitted as members of Convocation.
- 10 (2) The first meeting of Convocation shall be convened by the Vice-Chancellor.
- (3) Subject to the by-laws, meetings of Convocation shall be convened and the business at the meetings shall be as determined by Convocation.
- (4) A quorum at any meeting of Convocation shall be such number of
- 15 (5) Convocation has such functions as may be prescribed by the by-laws.
- (6) The Board may establish a Standing Committee and such other committees of Convocation as it considers necessary.

Academic Senate

- 20 16. (1) There shall be an Academic Senate of the University, consisting of—
- (a) the Vice-Chancellor;
 - (b) each of the chief executive officers of the network members; and
 - 25 (c) such other persons as the Board may, in accordance with the by-laws, determine.
- (2) Subject to subsection (1), the constitution and functions of the Academic Senate shall be as prescribed by the by-laws.

Advisory councils

- 30 17. (1) The Board shall establish an advisory council for each network member.
- (2) An advisory council shall consist of—
- (a) the chief executive officer of the network member; and
 - (b) no fewer than 10, but no more than 20, persons representing—
- 35 (i) the members of the academic and non-academic staff of the network member;
 - (ii) the students of the network member; and
 - (iii) the community.

(3) Subject to the by-laws—

- (a) the qualifications for appointment to an advisory council;
- (b) the manner in which a member of an advisory council is appointed;
- (c) the term for which a member of an advisory council holds office; and
- (d) the circumstances in which—
 - (i) the appointment of a member of an advisory council shall be taken to have been terminated; or
 - (ii) the office of a member of an advisory council shall be taken to have been vacated,

shall be as determined by the Board.

(4) Subject to the by-laws, the procedure of an advisory council shall be as determined by the council.

(5) An advisory council shall advise the Board, through the chief executive officer, on matters relating to the network member in respect of which the council is established and shall exercise such of the Board's functions as may be delegated to it by the Board.

PART 4—FUNCTIONS OF BOARD**Division 1—General****20 Functions of Board**

18. (1) The Board is the governing authority of the University and is responsible for—

- (a) the co-ordination of the use of the University's resources, including the monitoring of the efficiency and effectiveness of network members in their use of resources;
- (b) the distribution, among the network members, of the income of the University;
- (c) the development of broad policies with respect to academic planning and the nature and standards of academic awards and generally defining the educational profile of the University;
- (d) the definition of the areas and responsibilities of the network members with respect to teaching, research and consultancy;
- (e) the development of administrative and teaching facilities for the University;
- (f) liaison with government in relation to the overall resource needs of the University; and
- (g) representation of the University as occasion requires.

(2) The Board has such other functions as are conferred or imposed on it by or under this or any other Act.

*University of New England 1989***Powers of Board**

19. (1) The Board—
- (a) may provide such courses, and may confer such degrees and award such diplomas and other certificates, as it thinks fit;
 - 5 (b) may appoint and terminate the appointment of academic and other staff of the University;
 - (c) has the control and management of the affairs and concerns of the University and may act in all matters concerning the University in such manner as appears to it to be best calculated to promote the objects and interests of the University;
 - 10 (d) may borrow money for the purpose of exercising any of its functions, for the renewal of loans or for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank, within such limits, to such extent and on such conditions as to security or otherwise as the Governor, on the recommendation of the Treasurer, may approve;
 - 15 (e) may invest any funds belonging to or vested in the University;
 - (f) may establish or participate in such trusts, companies or other incorporated bodies as it considers appropriate to promote the objects and interests of the University;
 - 20 (g) may engage in the commercial development of any discovery or invention, or any intellectual property, in which the University has a right or interest;
 - (h) may establish and maintain branches and colleges of the University, within the University and elsewhere;
 - 25 (i) may make loans and grants to students; and
 - (j) may impose fees, charges and fines.
- (2) The powers of the Board under this section shall be exercised subject to the by-laws.
- 30 (3) Schedule 2 has effect in relation to the investment of funds by the Board.

Delegation by Board

20. The Board may, in relation to any matter or class of matters or in relation to any activity or function of the University, by resolution, delegate
- 35 all or any of its functions (except this power of delegation) to any member or committee of the Board or to any authority or officer of the University or to any other person prescribed by the by-laws.

Division 2—Property**Powers of Board relating to property**

- 40 21. (1) The Board—

University of New England 1989

- (a) may acquire by gift, bequest or devise any property for the purposes of this Act and may agree to carry out the conditions of any such gift, bequest or devise; and
- 5 (b) has the control and management of all property at any time vested in or acquired by the University, and may, subject to this section, dispose of property in the name and on behalf of the University.

(2) The Board shall not, except with the approval of the Minister, alienate, mortgage, charge or demise any lands of the University.

10 (3) Notwithstanding subsection (2), the Board may, without the approval of the Minister, lease any lands of the University if—

- (a) the term of the lease does not exceed 21 years; and
- (b) (except where the lessee is a residential college affiliated with the University) there is reserved for the whole of the term the highest rent that can reasonably be obtained.

15 (4) In the case of a lease of any lands of the University, or any renewal of the lease, to a residential college affiliated with the University, the lease—

- (a) shall be for a term not exceeding 99 years; and
- (b) shall be at a nominal rent; and
- 20 (c) shall contain a condition that the lease shall not be assigned and such other conditions as the Board thinks fit.

(5) The rule of law against remoteness of vesting does not apply to or in respect of any condition of a gift, bequest or devise to which the University has agreed.

Powers of Board over certain property vested in Crown

25 22. (1) Where any property used for the conduct of the University is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the Board has the control and management of that property and is responsible for its maintenance.

30 (2) Nothing in subsection (1) enables the Board to alienate, mortgage, charge or demise any land vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise).

(3) Notwithstanding subsection (2), the Board may (on behalf of the Crown or a Minister of the Crown) lease land of which it has, pursuant to this section, the control and management.

35 (4) Such a lease—

- (a) shall be for a term not exceeding 21 years; and
- (b) shall contain a condition that the lease shall not be assigned and such other conditions as the Board thinks fit.

University of New England 1989

(5) The Board is, in the exercise of its functions under this section, subject to the control and direction of the Minister.

Acquisition of land

23. (1) For the purposes of this Act, the Governor may, on the recommendation of the Minister, resume or appropriate any land under Division 1 of Part 5 of the Public Works Act 1912.

(2) The Minister shall not make a recommendation for the purposes of this section unless satisfied that adequate provision has been or will be made for the payment by the University of compensation for the resumption or appropriation and of all necessary charges and expenses incidental to the resumption or appropriation.

(3) A resumption or appropriation effected pursuant to this section shall be taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Minister shall, in relation to that authorised work, be taken to be the Constructing Authority within the meaning of that Act.

(4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, but section 38 of that Act does, apply in relation to a resumption or appropriation under this section.

Grant or transfer of certain land to University

24. (1) If land on which the University is conducted is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the land may—

- (a) if it is vested in the Crown—be transferred to the University subject to such trusts, conditions, covenants, provisions, exceptions and reservations as the Minister for Natural Resources thinks fit; or
- (b) if it is vested in a Minister of the Crown—be conveyed or transferred to the University for such estate, and subject to such trusts and rights of way or other easements, as the Minister in whom the land is vested thinks fit.

(2) A conveyance, transfer or other instrument executed for the purposes of this section—

- (a) is not liable to stamp duty under the Stamp Duties Act 1920; and
- (b) may be registered under any Act without fee.

PART 5—GENERAL**35 Advance by Treasurer**

25. The Treasurer may, with the approval of the Governor, advance to the Board money for the temporary accommodation of the University on such terms and conditions in relation to repayment and interest as may be agreed upon.

Financial year

26. The financial year of the University is—

- (a) if no period is prescribed as referred to in paragraph (b)—the year commencing on 1 January; or
 5 (b) the period prescribed by the by-laws for the purposes of this section.

No religious test or political discrimination

27. A person shall not, because of his or her religious or political affiliations, views or beliefs, be denied admission as a student of the University or be ineligible to hold office in, to graduate from or to enjoy
 10 any benefit, advantage or privilege of the University.

Exemption from membership of body corporate or Convocation

28. A student or graduate of the University or a member of the staff of the University is entitled to be exempted by the Board, on grounds of conscience, from membership of the body corporate of the University or of
 15 Convocation, or both.

Re-appointment or re-election

29. Nothing in this Act prevents any person from being re-appointed or re-elected to any office under this Act if the person is eligible and otherwise qualified to hold that office.

20 Seal of University

30. The seal of the University shall be kept in such custody as the Board may direct and shall only be affixed to a document pursuant to a resolution of the Board.

By-laws

25 31. (1) The Board may make by-laws, not inconsistent with this Act, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the management, good government and discipline of the University;
 30 (b) the method of election of members of the Board (other than the parliamentary members) who are to be elected;
 (c) the manner and time of convening, holding and adjourning the meetings of the Board or Academic Senate;
 35 (d) the manner of voting (including postal voting or voting by proxy) at meetings of the Board or Academic Senate;
 (e) the functions of the presiding member of the Board or Academic Senate;
 (f) the conduct and record of business of the Board or Academic Senate;

University of New England 1989

- (g) the appointment of committees of the Board or Academic Senate;
- (h) the quorum and functions of committees of the Board or Academic Senate;
- 5 (i) the resignation of members of the Board, the Chancellor, the Deputy Chancellor or the Vice-Chancellor;
- (j) the tenure of office, stipend and functions of the Vice-Chancellor;
- (k) the designation of members of staff of the University as academic staff, non-academic staff, full-time staff, part-time staff or otherwise;
- 10 (l) the number, stipend, manner of appointment and dismissal of officers and employees of the University;
- (m) admission to, enrolment in and exclusion from courses of studies;
- (n) the payment of such fees and charges, including fines, as the Board considers necessary, including fees and charges to be paid in respect of—
- 15 (i) entrance to the University;
- (ii) tuition;
- (iii) lectures and classes;
- (iv) examinations;
- (v) residence;
- 20 (vi) the conferring of degrees and the awarding of diplomas and other certificates;
- (vii) the provision of amenities and services, whether or not of an academic nature; and
- (viii) an organisation of students or of students and other persons;
- 25 (o) the exemption from, or deferment of, payment of fees and charges, including fines;
- (p) without limiting the operations of paragraphs (n) and (o), the imposition and payment of penalties for parking and traffic infringements;
- 30 (q) the courses of lectures or studies for, the assessments for, and the granting of, degrees, diplomas, certificates and honours and the attendance of candidates for degrees, diplomas, certificates and honours;
- (r) the assessments for, and the granting of, fellowships, scholarships, exhibitions, bursaries and prizes;
- 35 (s) the admission of students and former students of other universities and institutions of higher education to any status within the University or the granting to graduates of such universities or institutions, or to other persons, of degrees or diplomas without
- 40 examination;

University of New England 1989

- (t) the establishment and conduct of places of accommodation for students (including residential colleges and halls of residence within the University) and the affiliation of residential colleges;
- 5 (u) the affiliation with the University of any educational or research establishment;
- (v) the creation of faculties, schools, departments, centres or other entities within the University;
- (w) the provision of schemes of superannuation for the officers and employees of the University;
- 10 (x) the form and use of academic costume;
- (y) the form and use of an emblem of the University or of any network member or other body within or associated with the University;
- (z) the use of the seal of the University.
- (2) A by-law has no effect unless it has been approved by the Governor.

15 Rules

32. (1) The by-laws may empower any authority (including the Board) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for regulating, or providing for the regulation of, any specified matter with respect to which by-laws may be made.

- 20 (2) Any such rule—
- (a) shall have the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Board or by the authority or officer of the University empowered to make such a rule.

25 Recovery of charges, fees and other money

33. Any charge, fee or money due to the University under this Act may be recovered as a debt in any court of competent jurisdiction.

Repeal etc.

34. (1) The University of New England Act 1953 is repealed.

- 30 (2) The Council of the University of New England, as constituted immediately before the repeal of the University of New England Act 1953, is dissolved.

35 (3) The persons holding office as members of the Council, Chancellor, Deputy Chancellor and Vice-Chancellor immediately before the repeal of the University of New England Act 1953 cease to hold office as such on that repeal.

Savings and transitional provisions

35. Schedule 3 has effect.

**SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF THE BOARD**

5

(Sec. 9)

Term of office

1. Subject to this Act, a member of the Board holds office—
- (a) in the case of a parliamentary member, until a member of the House of Parliament that elected the member is elected as a replacement;
 - 10 (b) in the case of an official member, while the member holds the office by virtue of which he or she is a member;
 - (c) in the case of an appointed member, for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment;
 - 15 (d) in the case of an elected member referred to in section 9 (6) (a), (b) or (c), for such term (not exceeding 2 years) as may be prescribed by the by-laws; and
 - (e) in the case of an elected member referred to in section 9 (6) (d), for such term (not exceeding 4 years) as may be prescribed by the by-laws.

Vacation of office

2. The office of a member of the Board becomes vacant if the member—
- 20 (a) dies;
 - (b) declines to act;
 - (c) resigns the office by writing under his or her hand addressed—
 - (i) in the case of the parliamentary member who is a Member of the Legislative Council, to the President of the Legislative Council;
 - 25 (ii) in the case of the parliamentary member who is a Member of the Legislative Assembly, to the Speaker of the Legislative Assembly;
 - (iii) in the case of an appointed member, to the Minister; or
 - (iv) in the case of an elected member, to the Vice-Chancellor;
 - 30 (d) in the case of an appointed or elected member, becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her remuneration for their benefit;
 - 35 (e) in the case of an appointed or elected member, becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - (f) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable;
 - 40 (g) in the case of an appointed or elected member, is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, and is not, within 6 weeks after the last of those meetings, excused by the Board for his or her absence;

*University of New England 1989*SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD—*continued*

- (h) in the case of the parliamentary member elected by the Legislative Council—
- (i) ceases to be a Member of that Council otherwise than by reason of section 22B (1) (c) of the Constitution Act 1902; or
 - 5 (ii) ceases to be a Member of that Council by reason of section 22B (1) (c) of that Act and does not become a candidate at the next periodic Council election within the meaning of section 3 of that Act or, as the case may be, becomes a candidate but is not elected;
- (i) in the case of the parliamentary member elected by the Legislative Assembly—
- 10 (i) ceases to be a Member of that Assembly otherwise than by reason of its dissolution or its expiration by effluxion of time; or
 - (ii) ceases to be a Member of that Assembly by reason of its dissolution or its expiration by effluxion of time and does not become a candidate at the next general election of Members of that Assembly or, as the case may be, becomes a candidate but is not elected;
- 15 (j) in the case of an elected member, ceases to be qualified for election; or
- (k) in the case of an appointed member, is removed from office by the Minister.

Filling of vacancy in office of member

3. (1) If the office of an appointed or elected member of the Board becomes vacant, a person shall, subject to this Act and the by-laws, be appointed or elected to fill the
20 vacancy.

(2) The by-laws may provide that, in such circumstances (other than expiration of term of office) as may be prescribed, a person shall be appointed or elected in such manner as may be prescribed instead of in the manner provided for by this Act.

Committees of the Board

25 4. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Board.

30 (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

Liability of Board members and others

5. No matter or thing done by—

- (a) the University, the Board or a member of the Board; or
 - 35 (b) any person acting under the direction of the University or the Board,
- shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member of the Board or a person so acting personally to any action, liability, claim or demand.

General procedure

40 6. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the by-laws, be as determined by the Board.

University of New England 1989

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF
THE BOARD—*continued*

Presiding member

7. (1) The Chancellor shall preside at all meetings of the Board at which the Chancellor is present.

5 (2) At any meeting of the Board at which the Chancellor is not present, the Deputy Chancellor shall preside and, in the absence of both the Chancellor and the Deputy Chancellor, a member elected by and from the members present shall preside.

(3) Except as provided by subclause (4), at the meetings of a committee constituted by the Board a member appointed by the Board (or, if no member is so appointed, a member elected by and from the members present) shall preside.

10 (4) At any meeting of a committee constituted by the Board at which the Chancellor is present, the Chancellor is entitled, if he or she so desires, to preside at that meeting.

Quorum

8. At any meeting of the Board, a majority of the total number of members for the time being of the Board constitutes a quorum.

15

Voting

9. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

SCHEDULE 2—POWERS OF INVESTMENT

(Sec. 19)

20

Definitions

1. In this Schedule—

“class A funds” means—

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

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

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

(b) grants; or

30 (c) student tuition fees;

“class B funds” means money held by the University which is not class A funds;

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

(a) the State of New South Wales; or

35 (b) the Commonwealth,

or any part of that money;

“investment pool” means an investment pool established by the Board under this Schedule;

“pooled item” means—

(a) a private gift;

University of New England 1989

SCHEDULE 2—POWERS OF INVESTMENT—*continued*

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

Terms of trust to prevail

2. The terms of—
- 15 (a) in the case of a private gift—any instrument creating a trust with respect to that private gift;
 - (b) in the case of a grant—the instrument of grant; and
 - (c) in the case of property, other than money, given to the University—any instrument creating a trust with respect to that property,
- have effect despite clauses 3, 4 and 5.

20 Investment of money

3. The Board may invest any class A funds or class B funds held by the University—
- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
 - 25 (b) at any time at which the Public Authorities (Financial Arrangements) Act 1987 does not apply to the Board so as to authorise any such investment—
 - (i) in accordance with and subject to the Trustee Act 1925; or
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment pools

- 30 4. (1) The Board may establish and maintain one or more investment pools for the collective investment of property held by the University.
- (2) The Board may from time to time—
- (a) bring into or withdraw from an investment pool the whole or any part of any class A funds or class B funds held by the University; or
 - 35 (b) bring into an investment pool—
 - (i) securities, other than securities in respect of which the donor has, in an instrument creating a trust in respect of those securities, specified that the income from those securities is to be applied for a purpose other than the general purposes of the University; or

University of New England 1989

SCHEDULE 2—POWERS OF INVESTMENT—*continued*

- (ii) real property, other than real property in respect of which the donor has, in an instrument creating a trust in respect of that real property, specified that the income from that real property is to be applied for a purpose other than the general purposes of the University,
- 5 or withdraw money to the value attributed equitably to those securities or that real property by the Board at the date of withdrawal.
- (3) The Board shall not bring into or retain in any investment pool the whole or any part of any class A funds if the investments in which the capital of the investment pool is invested are not investments made in accordance with and subject to the Trustee Act
- 10 1925.

Distribution of income of investment pools

5. (1) The Board shall, at least once a year, distribute the income of an investment pool.
- (2) On the distribution of the income of an investment pool, the Board shall, in respect
- 15 of—
- (a) a pooled item being a private gift where the donor of the private gift has, in an instrument creating a trust in respect of the private gift—
- (i) specified that the income from the investment of the private gift is to be applied for a purpose other than the general purposes of the University; or
- 20 (ii) specified that the private gift is to be applied for a purpose other than the general purposes of the University and the private gift is insufficient, without the addition of the income from the investment of the private gift, to achieve that purpose; and
- (b) any other pooled item in respect of which the Board is otherwise required to do
- 25 so,
- credit the income of the investment pool to the account kept by it in respect of the private gift or other pooled item proportionately according to—
- (c) the value attributed equitably to the private gift or other pooled item by the Board at the date of distribution; and
- 30 (d) the period for which the private gift or other pooled item has formed part of the investment pool since the date of the last preceding distribution of the income of the investment pool.
- (3) If the Board distributes the income of an investment pool, it may, in respect of a pooled item (other than a pooled item referred to in subclause (2) (a) or (b)) credit the
- 35 income of the investment pool to any account kept by it.

Nature of private gift etc. not affected by pooling

6. (1) The inclusion in an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) does not affect the identity of the pooled item as a private gift, a grant, student tuition fees or class B funds.
- 40 (2) The inclusion in an investment pool of a pooled item does not affect any trust to which the pooled item was subject immediately before its inclusion in the investment pool.

*University of New England 1989*SCHEDULE 2—POWERS OF INVESTMENT—*continued*

(3) On the withdrawal from an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) the pooled item shall continue to be subject to any trust to which it was subject immediately before its inclusion in the investment pool.

- 5 (4) On the withdrawal from an investment pool of money to the value attributed to any securities or real property by the Board under clause 4 (2) (b), that money shall be subject to any trust to which those securities were subject, or to which that real property was subject, immediately before its inclusion in the investment pool.

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

10

(Sec. 35)

Part 1—Interim Board**Interim Board of the University**

1. (1) Pending the commencement of section 9, the Board shall consist of—
- 15 (a) the Chancellor (if the Chancellor is not otherwise a member of the Board);
- (b) the Vice-Chancellor;
- (c) the person for the time being holding the office of—
- 20 (i) presiding member of the Academic Senate (if that person is not the Vice-Chancellor); or
- (ii) deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor);
- (d) the person who held office immediately before the commencement of this clause as the Principal of the Armidale College of Advanced Education;
- (e) the person who held office immediately before the commencement of this clause as the Principal of the Northern Rivers College of Advanced Education; and
- 25 (f) not more than 15 persons appointed by the Minister.
- (2) The members of the Board shall, subject to this Act, hold office until the Board is duly constituted under section 9.
- (3) The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.
- 30 (4) A member of the Board designated by the Minister shall preside at all meetings of the Board until the election of the first Chancellor of the University.
- (5) The Board shall make all necessary by-laws and take all necessary steps to ensure, as far as possible, that a Board is duly constituted under section 9 so as to take office within 12 months after the commencement of this clause or within such extended time
- 35 as is specified in a proclamation at any time during that period of 12 months.
- (6) The provisions of this Act (except clause 1 of Schedule 1) applicable to the Board or the members of the Board apply to the Board as constituted in accordance with this clause or the members holding office under this clause.

Chancellor

- 40 2. (1) The Board constituted under this Part shall—

*University of New England 1989*SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (a) at its first meeting or as soon as practicable thereafter; and
 (b) whenever a vacancy in the office of Chancellor occurs,

elect a person (whether or not a member of the Board) to be Chancellor of the University.

(2) The Chancellor elected under this clause shall, subject to this Act, hold office until
 5 a Chancellor is duly elected under section 10.

(3) Section 10 (1) and (2) do not apply to or in respect of the Chancellor elected under this clause.

Deputy Chancellor

3. (1) The Board constituted under this Part shall—

- 10 (a) at its first meeting or as soon as practicable thereafter; and
 (b) whenever a vacancy in the office of Deputy Chancellor occurs,

elect one of its members to be Deputy Chancellor of the University.

(2) The Deputy Chancellor elected under this clause shall, subject to this Act, hold office until a Deputy Chancellor is duly elected under section 11.

15 (3) Section 11 (1) and (2) do not apply to or in respect of the Deputy Chancellor elected under this clause.

First Vice-Chancellor

4. (1) The first Vice-Chancellor shall be the person who, immediately before the commencement of this clause, held office as the Vice-Chancellor of the University of
 20 New England.

(2) The first Vice-Chancellor shall be taken to have been appointed for the residue of his or her term of office as Vice-Chancellor immediately before that commencement.

(3) Section 12 (2) does not apply to or in respect of the first Vice-Chancellor.

Part 2—Savings**25 University a continuation of the old University**

5. The University is a continuation of, and the same legal entity as, the University of New England established by the University of New England Act 1953.

First chief executive officers of network members

30 6. The persons who, immediately before the commencement of this clause, held office as the Vice-Chancellor of the University of New England and the Principal of the Northern Rivers College of Advanced Education shall respectively be the chief executive officers of the corresponding members of the University network.

*University of New England 1989*SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Convocation**

7. (1) Convocation includes—

- 5 (a) past members of the governing body of any of the former institutions that have, pursuant to the Higher Education (Amalgamation) Act 1989 or otherwise, become network members of, or a part of, the University; and
- (b) graduates of any of those institutions.

(2) In this clause, a reference to a former institution includes a reference to any predecessor of the institution.

Saving of delegations

- 10 8. Any delegation made or taken to have been made by the Council of the University of New England, under the University of New England Act 1953, shall be taken to be a delegation under this Act by the Board.

Existing investments

- 15 9. Nothing in this Act affects the validity of any investment made on behalf of the University before the commencement of Schedule 2.

By-laws

10. Any by-laws in force immediately before the commencement of this clause under the University of New England Act 1953—

- 20 (a) continue in force as if they had been made by the Board; and
- (b) may be amended and revoked accordingly.

University of New England, Northern Rivers, to be assured representation on the Board

11. (1) This clause applies for the period beginning on the commencement of section 9 and ending on the date occurring 3 years after that commencement.

- 25 (2) One of the 4 persons to be elected pursuant to section 9 (6) (d) shall be elected from such of the members of Convocation as are—

- (a) graduates of the University of New England, Northern Rivers;
- (b) graduates of the University who have been students at the University of New England, Northern Rivers, for at least 12 months; or
- 30 (c) members of the academic staff of the University (other than academic staff having the qualifications referred to in section 9 (6) (a) (ii)) who are employed at the University of New England, Northern Rivers.

(3) There shall be an additional elected member of the Board—

- (a) who is a member of the academic staff of the University employed at the University of New England, Northern Rivers;
- 35 (b) who has the qualifications referred to in section 9 (6) (a) (ii); and
- (c) who is elected in the manner referred to in section 9 (6) (a) (iii).

University of New England 1989

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(4) Subject to subclause (5), the member of the Board elected pursuant to subclause (3) shall be taken to be an elected member of the Board.

(5) Without limiting the other provisions of this Act with respect to vacation of office, a member of the Board elected pursuant to subclause (3) shall cease to hold office at the
5 end of 3 years after the commencement of section 9.



