

UNIVERSITY LEGISLATION (AMENDMENT) ACT 1994
No. 16

NEW SOUTH WALES



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UNIVERSITY LEGISLATION (AMENDMENT) ACT 1994
No. 16

NEW SOUTH WALES



Act No. 16, 1994

An Act to amend certain university Acts with respect to university Visitors, by-laws, rules and leasing powers; and for other purposes.
[Assented to 10 May 1994]

University Legislation (Amendment) Act 1994 No. 16

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the University Legislation (Amendment) Act 1994.

Commencement

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

Amendment of university legislation

3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

**SCHEDULE 1—AMENDMENT OF UNIVERSITY
LEGISLATION**

(Sec. 3)

CHARLES STURT UNIVERSITY ACT 1989 No. 76

(1) Section 14:

Omit the section, insert instead:

Visitor

14. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 21 (**Powers of Board relating to property**):

Omit section 21 (3) (b), insert instead:

(b) the Board is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 31 (**By-laws**):

(a) From section 31 (1) (y), omit "and" where secondly occurring.

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(b) At the end of section 31 (1) (z), insert:

; and

(aa) the making, publication and inspection of rules.

(4) Section 32:

Omit the section, insert instead:

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 or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (6), 10 (2), 15 (1), 19 (1) (d) and (e), 26 and 31 (1) (b) and (k) and clauses 1 (d) and 3 of Schedule 1.

(2) A rule:

(a) has the same force and effect as a by-law; and

(b) may, from time to time, be amended or repealed by the Board (whether or not the Board is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(5) Schedule 4 (**Savings and transitional provisions**):

After Part 2, insert:

**PART 3—PROVISIONS CONSEQUENT ON THE
ENACTMENT OF THE UNIVERSITY
LEGISLATION (AMENDMENT) ACT 1994**

Visitor

31. (1) Section 14 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

32. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

MACQUARIE UNIVERSITY ACT 1989 No. 126

(1) Section 13:

Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 28 (**By-laws**):

(a) From section 28 (1) (y), omit “and” where secondly occurring.

(b) At the end of section 28 (1) (z), insert:

; and

(aa) the making, publication and inspection of rules.

(4) Section 29:

Omit the section, insert instead:

Rules

29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

(a) has the same force and effect as a by-law; and

(b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 8, insert:

Visitor

9. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

10. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

SOUTHERN CROSS UNIVERSITY ACT 1993 No. 69

(1) Section 14:

Omit the section, insert instead:

Visitor

14. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 29 (**By-laws**):

After section 29 (1) (z), insert:

(aa) the making, publication and inspection of rules.

(4) Section 30:

Omit the section, insert instead:

Rules

30. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 10 (5), 11 (2), 16 (1) (d) and (e), 24 and 29 (1) (b) and (k) and clauses 1 (d) and 3 of Schedule 1.

(2) A rule:

(a) has the same force and effect as a by-law; and

(b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After Part 5, insert:

Part 6—Miscellaneous

Visitor

29. (1) Section 14 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

30. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

UNIVERSITY OF NEW ENGLAND ACT 1993 No. 68

(1) Section 13:

Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 28 (**By-laws**):

After section 28 (1) (z), insert:

(aa) the making, publication and inspection of rules.

(4) Section 29:

Omit the section, insert instead:

Rules

29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

(a) has the same force and effect as a by-law; and

(b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After Part 5, insert:

Part 6—Miscellaneous

Visitor

33. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

34. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

UNIVERSITY OF NEW SOUTH WALES ACT 1989
No. 125

(1) Section 13:

Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 17 (**Powers of Council relating to property**):

Omit section 17 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 27 (**By-laws**):

(a) From section 27 (1) (y), omit “and” where secondly occurring.

(b) At the end of section 27 (1) (z), insert:

; and

(aa) the making, publication and inspection of rules.

(4) Section 28:

Omit the section, insert instead:

Rules

28. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 15 (1) (d) and (e), 22 and 27 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

(a) has the same force and effect as a by-law; and

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) **Schedule 3 (Savings and transitional provisions):**

After clause 7, insert:

Visitor

8. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

9. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

UNIVERSITY OF NEWCASTLE ACT 1989 No. 68

(1) Section 13:

Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 28 (**By-laws**):

(a) From section 28 (1) (y), omit “and” where secondly occurring.

(b) At the end of section 28 (1) (z), insert:

; and

(aa) the making, publication and inspection of rules.

(4) Section 29:

Omit the section, insert instead:

Rules

29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

- (a) has the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- (d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 9, insert:

Visitor

10. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

11. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

UNIVERSITY OF SYDNEY ACT 1989 No. 124

(1) Section 13:

Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Senate relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Senate is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 36 (**By-laws**):

(a) From section 36 (1) (cc), omit “and” where secondly occurring.

(b) At the end of section 36 (1) (dd), insert:

; and

(ee) the making, publication and inspection of rules.

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(4) Section 37:

Omit the section, insert instead:

Rules

37. (1) The by-laws may empower any authority (including the Senate) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5) and (9), 10 (2), 14 (1), 16 (1) (d) and (e), 30 and 36 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

- (a) has the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Senate (whether or not the Senate is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- (d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 9, insert:

Visitor

10. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

11. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

**UNIVERSITY OF TECHNOLOGY, SYDNEY, ACT 1989
No. 69**

(1) Section 13:

Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

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SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(3) Section 28 (**By-laws**):

- (a) From section 28 (1) (y), omit “and” where secondly occurring.
- (b) At the end of section 28 (1) (z), insert:
 - ; and
 - (aa) the making, publication and inspection of rules.

(4) Section 29:

Omit the section, insert instead:

Rules

29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

- (a) has the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- (d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 10, insert:

Visitor

11. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

12. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

UNIVERSITY OF WESTERN SYDNEY ACT 1988 No. 90

(1) Section 11 (**Powers of Board**):

Omit section 11 (3) (b), insert instead:

(b) the Board is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(2) Section 29:

Omit the section, insert instead:

Visitor

29. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(3) Section 35 (**By-laws**):

At the end of section 35 (2) (x), insert:

; and

(y) the making, publication and inspection of rules.

(4) Section 36:

Omit the section, insert instead:

Rules

36. (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 or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (3), 9 (6), 11 (1) (e) and (f), 13 (2), 24 (1) and 35 (2) (b) and clauses 2 (d) and 4 of Schedule 1.

(2) A rule:

- (a) has the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Board (whether or not the Board is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- (d) must indicate the authority or officer who made the rule and that it is made under this section.

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (Savings and transitional provisions):

(a) In the heading, before “TRANSITIONAL”, insert “SAVINGS AND”.

(b) After clause 18, insert:

Visitor

19. (1) Section 29 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws, rules and orders

20. (1) Any by-law made or taken to have been under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

(3) Any order made under section 36 and in force immediately before the commencement of this clause is taken to be a rule made under that section as inserted by the

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

University Legislation (Amendment) Act 1994, but only to the extent that it could have been made as a rule under that section as so inserted.

UNIVERSITY OF WOLLONGONG ACT 1989 No. 127

(1) Section 13:

Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 28 (**By-laws**):

(a) From section 28 (1) (y), omit “and” where secondly occurring.

(b) At the end of section 28 (1) (z), insert:

; and

(aa) the making, publication and inspection of rules.

(4) Section 29:

Omit the section, insert instead:

Rules

29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

- (a) has the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- (d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) **Schedule 3 (Savings and transitional provisions):**

After clause 8, insert:

Visitor

9. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

10. (1) Any by-law made or taken to have been made under this Act and in force immediately before the

University Legislation (Amendment) Act 1994 No. 16

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

[*Minister's second reading speech made in—
Legislative Council on 14 April 1994
Legislative Assembly on 21 April 1994 a.m.*]

FIRST PRINT

UNIVERSITY LEGISLATION (AMENDMENT) BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Acts relating to the universities listed below:

- (a) to limit the role of the office of Visitor of those universities to ceremonial functions only by abolishing the functions of the office of Visitor relating to the resolution of disputes and other matters concerning the affairs of those universities; and
- (b) to clarify the powers of the governing bodies of those universities to make rules; and
- (c) to remove certain restrictions relating to the leasing of property of those universities.

The universities concerned are:

Charles Sturt University
Macquarie University
Southern Cross University
University of New England
University of New South Wales
University of Newcastle
University of Sydney
University of Technology, Sydney
University of Western Sydney
University of Wollongong

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 gives effect to Schedule 1 which contains the amendments to the University Acts listed above.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION**Visitors**

The Visitor is a traditional office in a university with ceremonial and dispute resolution functions.

The Visitor of a university has power to resolve disputes which are internal to the university (such as disputes relating to the disciplining of students or the promotion or dismissal of staff).

The provisions in each university Act stating that the Governor is to be the Visitor for the university are to be amended to abolish the functions and jurisdiction of the Visitor, except ceremonial functions. However, the Visitor will be able to complete matters that are being dealt with when the amendments commence.

Leasing powers of universities

Currently each university must obtain the approval of the Minister to lease its property unless the term of the lease does not exceed 21 years and the highest rent that can reasonably be obtained is reserved for the whole of that term. The amendments will change the existing provisions so that the Minister's approval must be obtained to a lease of university property unless the term of the lease does not exceed 21 years and the governing body of the University is satisfied that it is to the benefit of the university, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

By-laws, rules and orders

The amendments substitute the provisions of the university Acts relating to the making of rules so as to make it clear that the by-laws may authorise the making of rules with respect to matters for which by-laws may be made (except with respect to matters such as the constitution of, and the election of members to, the governing bodies of the universities, the office of Chancellor and Deputy Chancellor and to the making, publication and inspection of rules).

The Bill makes other minor and consequential amendments concerning the by-law and rule making powers.

The University of Western Sydney Act 1988 provides for the making of orders as well as rules. The amendments remove the provisions for the making of orders and provide for existing orders to continue in force as rules.

FIRST PRINT

UNIVERSITY LEGISLATION (AMENDMENT) BILL 1994

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of university legislation

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION

UNIVERSITY LEGISLATION (AMENDMENT) BILL 1994

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend certain university Acts with respect to university Visitors, by-laws, rules and leasing powers; and for other purposes.

University Legislation (Amendment) 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the University Legislation (Amendment) Act 1994.

5 Commencement

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

Amendment of university legislation

3. Each Act specified in Schedule 1 is amended as set out in that
10 Schedule.

**SCHEDULE 1—AMENDMENT OF UNIVERSITY
LEGISLATION**

(Sec. 3)

CHARLES STURT UNIVERSITY ACT 1989 No. 76

15 (1) Section 14:

Omit the section, insert instead:

Visitor

14. (1) The Governor is the Visitor of the University but has ceremonial functions only.

20 (2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(2) Section 21 (**Powers of Board relating to property**):

25 Omit section 21 (3) (b), insert instead:

(b) the Board is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 31 (**By-laws**):

30 (a) From section 31 (1) (y), omit "and" where secondly occurring.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(b) At the end of section 31 (1) (z), insert:

; and

(aa) the making, publication and inspection of rules.

5

(4) Section 32:

Omit the section, insert instead:

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 or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (6), 10 (2), 15 (1), 19 (1) (d) and (e), 26 and 31 (1) (b) and (k) and clauses 1 (d) and 3 of Schedule 1.

10

15

(2) A rule:

(a) has the same force and effect as a by-law; and

(b) may, from time to time, be amended or repealed by the Board (whether or not the Board is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

20

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

(d) must indicate the authority or officer who made the rule and that it is made under this section.

25

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

30

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(5) Schedule 4 (Savings and transitional provisions):

After Part 2, insert:

5 **PART 3—PROVISIONS CONSEQUENTIAL ON THE
 ENACTMENT OF THE UNIVERSITY
 LEGISLATION (AMENDMENT) ACT 1994**

Visitor

10 31. (1) Section 14 (2) extends to disputes and other matters
arising before the commencement of this clause.

 (2) However, if an inquiry by or at the direction of the
Visitor into a dispute or other matter has commenced or been
completed before the commencement of this clause, the
dispute or other matter is to be dealt with and determined as
15 if the University Legislation (Amendment) Act 1994 had not
been enacted.

**Effect of the University Legislation (Amendment) Act
1994 on existing by-laws and rules**

20 32. (1) Any by-law made or taken to have been made
under this Act and in force immediately before the
commencement of this clause is taken to have been made
under this Act as amended by the University Legislation
(Amendment) Act 1994, but only to the extent to which it
25 could have been made under this Act if this Act had been so
amended at the time the by-law was made.

 (2) Any rule in force immediately before the
commencement of this clause is taken to have been made
under this Act as amended by the University Legislation
(Amendment) Act 1994, but only to the extent to which it
30 could have been made under this Act if this Act had been so
amended at the time the rule was made.

MACQUARIE UNIVERSITY ACT 1989 No. 126

(1) Section 13:

Omit the section, insert instead:

35 **Visitor**

 13. (1) The Governor is the Visitor of the University but
has ceremonial functions only.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

- (2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only). 5
- (2) Section 18 (**Powers of Council relating to property**):
- Omit section 18 (3) (b), insert instead:
- (b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into. 10
- (3) Section 28 (**By-laws**):
- (a) From section 28 (1) (y), omit “and” where secondly occurring.
- (b) At the end of section 28 (1) (z), insert: 15
- ; and
- (aa) the making, publication and inspection of rules.
- (4) Section 29:
- Omit the section, insert instead:
- Rules** 20
29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1. 25
- (2) A rule:
- (a) has the same force and effect as a by-law; and 30
- (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and 35
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(d) must indicate the authority or officer who made the rule and that it is made under this section.

5 (3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

10 (4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 8, insert:

Visitor

15 9. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

20 (2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

25 10. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

30 (2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

35

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

SOUTHERN CROSS UNIVERSITY ACT 1993 No. 69

- (1) Section 14: 5
 Omit the section, insert instead:
 Visitor
 14. (1) The Governor is the Visitor of the University but has ceremonial functions only.
 (2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only). 10
- (2) Section 18 (**Powers of Council relating to property**):
 Omit section 18 (3) (b), insert instead: 15
 (b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.
- (3) Section 29 (**By-laws**):
 After section 29 (1) (z), insert: 20
 (aa) the making, publication and inspection of rules.
- (4) Section 30:
 Omit the section, insert instead:
 Rules
 30. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 10 (5), 11 (2), 16 (1) (d) and (e), 24 and 29 (1) (b) and (k) and clauses 1 (d) and 3 of Schedule 1. 25
 (2) A rule: 30
 (a) has the same force and effect as a by-law; and
 (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and 35

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- 5 (d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

- 10 (4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After Part 5, insert:

15 **Part 6—Miscellaneous**

Visitor

29. (1) Section 14 (2) extends to disputes and other matters arising before the commencement of this clause.

- 20 (2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

25 **Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules**

- 30 30. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

- 35 (2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

UNIVERSITY OF NEW ENGLAND ACT 1993 No. 68

- (1) Section 13: 5
 Omit the section, insert instead:
 Visitor
 13. (1) The Governor is the Visitor of the University but has ceremonial functions only.
 (2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only). 10
- (2) Section 18 (**Powers of Council relating to property**):
 Omit section 18 (3) (b), insert instead:
 (b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into. 15
- (3) Section 28 (**By-laws**):
 After section 28 (1) (z), insert:
 (aa) the making, publication and inspection of rules. 20
- (4) Section 29:
 Omit the section, insert instead:
 Rules
 29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1. 25
 (2) A rule: 30
 (a) has the same force and effect as a by-law; and
 (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and 35

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

- 5 (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

- 10 (4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) **Schedule 3 (Savings and transitional provisions):**

After Part 5, insert:

15 **Part 6—Miscellaneous**

Visitor

33. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

- 20 (2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

25 **Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules**

- 30 34. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

- 35 (2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

UNIVERSITY OF NEW SOUTH WALES ACT 1989
No. 125

- (1) Section 13: 5
Omit the section, insert instead:
Visitor
13. (1) The Governor is the Visitor of the University but has ceremonial functions only.
(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only). 10
- (2) Section 17 (**Powers of Council relating to property**): 15
Omit section 17 (3) (b), insert instead:
(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.
- (3) Section 27 (**By-laws**): 20
(a) From section 27 (1) (y), omit “and” where secondly occurring.
(b) At the end of section 27 (1) (z), insert:
; and
(aa) the making, publication and inspection of rules.
- (4) Section 28: 25
Omit the section, insert instead:
Rules
28. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 15 (1) (d) and (e), 22 and 27 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1. 30
(2) A rule: 35
(a) has the same force and effect as a by-law; and

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

5 (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

10 (d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

15 (4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 7, insert:

20 **Visitor**

8. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

25 (2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

30 **Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules**

35 9. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made. 5

UNIVERSITY OF NEWCASTLE ACT 1989 No. 68

(1) Section 13: 10
Omit the section, insert instead:

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only). 15

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead: 20

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

(3) Section 28 (**By-laws**):

(a) From section 28 (1) (y), omit “and” where secondly occurring. 25

(b) At the end of section 28 (1) (z), insert:

; and

(aa) the making, publication and inspection of rules.

(4) Section 29: 30

Omit the section, insert instead:

Rules

29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to 35

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

5 which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

(2) A rule:

(a) has the same force and effect as a by-law; and
10 (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

15 (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

20 (4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

25 After clause 9, insert:

Visitor

10. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

30 (2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

35 **Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules**

11. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made. 5

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made. 10

UNIVERSITY OF SYDNEY ACT 1989 No. 124

(1) Section 13:

Omit the section, insert instead: 15

Visitor

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only). 20

(2) Section 18 (**Powers of Senate relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Senate is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into. 25

(3) Section 36 (**By-laws**):

(a) From section 36 (1) (cc), omit “and” where secondly occurring. 30

(b) At the end of section 36 (1) (dd), insert:

; and

(ee) the making, publication and inspection of rules.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(4) Section 37:

Omit the section, insert instead:

5

Rules

10

37. (1) The by-laws may empower any authority (including the Senate) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5) and (9), 10 (2), 14 (1), 16 (1) (d) and (e), 30 and 36 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

15

(2) A rule:

20

- (a) has the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Senate (whether or not the Senate is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- (d) must indicate the authority or officer who made the rule and that it is made under this section.

25

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

30

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 9, insert:

Visitor

35

10. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

5

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

11. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

10

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

15

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UNIVERSITY OF TECHNOLOGY, SYDNEY, ACT 1989
No. 69

(1) Section 13:

Omit the section, insert instead:

Visitor

25

13. (1) The Governor is the Visitor of the University but has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

30

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

35

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(3) Section 28 (**By-laws**):

- 5 (a) From section 28 (1) (y), omit “and” where secondly occurring.
- (b) At the end of section 28 (1) (z), insert:
 ; and
 (aa) the making, publication and inspection of rules.

(4) Section 29:

- 10 Omit the section, insert instead:

Rules

- 15 29. (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1.

- 20 (2) A rule:

- (a) has the same force and effect as a by-law; and
- (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and
- 25 (c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and
- (d) must indicate the authority or officer who made the rule and that it is made under this section.
- 30

- (3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

- 35 (4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 10, insert:

Visitor

11. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted.

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules

12. (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

UNIVERSITY OF WESTERN SYDNEY ACT 1988 No. 90

(1) Section 11 (**Powers of Board**):

Omit section 11 (3) (b), insert instead:

(b) the Board is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(2) Section 29:

Omit the section, insert instead:

5

Visitor

29. (1) The Governor is the Visitor of the University but has ceremonial functions only.

10

(2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

(3) Section 35 (**By-laws**):

At the end of section 35 (2) (x), insert:

; and

15

(y) the making, publication and inspection of rules.

(4) Section 36:

Omit the section, insert instead:

Rules

20

36. (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 or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (3), 9 (6), 11 (1) (e) and (f), 13 (2), 24 (1) and 35 (2) (b) and clauses 2 (d) and 4 of Schedule 1.

25

(2) A rule:

(a) has the same force and effect as a by-law; and

30

(b) may, from time to time, be amended or repealed by the Board (whether or not the Board is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and

35

(d) must indicate the authority or officer who made the rule and that it is made under this section.

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section. 5

(5) Schedule 3 (**Savings and transitional provisions**):

(a) In the heading, before “TRANSITIONAL”, insert “SAVINGS AND”. 10

(b) After clause 18, insert:

Visitor

19. (1) Section 29 (2) extends to disputes and other matters arising before the commencement of this clause. 15

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted. 20

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws, rules and orders

20. (1) Any by-law made or taken to have been under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made. 25 30

(2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the University Legislation (Amendment) Act 1994, but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made. 35

(3) Any order made under section 36 and in force immediately before the commencement of this clause is taken to be a rule made under that section as inserted by the

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

5 University Legislation (Amendment) Act 1994, but only to
the extent that it could have been made as a rule under that
section as so inserted.

UNIVERSITY OF WOLLONGONG ACT 1989 No. 127

(1) Section 13:

Omit the section, insert instead:

Visitor

10 13. (1) The Governor is the Visitor of the University but
has ceremonial functions only.

(2) Accordingly, the Visitor has no functions or jurisdiction
with respect to the resolution of disputes or any other matter
concerning the affairs of the University (other than a matter
15 involving the exercise of ceremonial functions only).

(2) Section 18 (**Powers of Council relating to property**):

Omit section 18 (3) (b), insert instead:

(b) the Council is satisfied that it is to the benefit of the
University, whether from a financial or educational
20 standpoint or otherwise, that the lease be entered into.

(3) Section 28 (**By-laws**):

(a) From section 28 (1) (y), omit “and” where secondly
occurring.

(b) At the end of section 28 (1) (z), insert:

25 ; and

(aa) the making, publication and inspection of rules.

(4) Section 29:

Omit the section, insert instead:

Rules

30 29. (1) The by-laws may empower any authority
(including the Council) or officer of the University to make
rules (not inconsistent with this Act or the by-laws) for or
with respect to any or all of the matters for or with respect to

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

which by-laws may be made, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (d) and (e) and 3 of Schedule 1. 5

(2) A rule:

(a) has the same force and effect as a by-law; and
(b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule; and 10

(c) takes effect on the day on which it is published or on such later day as may be specified in the rule; and 15

(d) must indicate the authority or officer who made the rule and that it is made under this section.

(3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

(4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the subject of rules made in accordance with this section. 20

(5) Schedule 3 (**Savings and transitional provisions**):

After clause 8, insert: 25

Visitor

9. (1) Section 13 (2) extends to disputes and other matters arising before the commencement of this clause.

(2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the University Legislation (Amendment) Act 1994 had not been enacted. 30

Effect of the University Legislation (Amendment) Act 1994 on existing by-laws and rules 35

10. (1) Any by-law made or taken to have been made under this Act and in force immediately before the

University Legislation (Amendment) 1994

SCHEDULE 1—AMENDMENT OF UNIVERSITY LEGISLATION—
continued

5 commencement of this clause is taken to have been made
under this Act as amended by the University Legislation
(Amendment) Act 1994, but only to the extent to which it
could have been made under this Act if this Act had been so
amended at the time the by-law was made.

10 (2) Any rule in force immediately before the
commencement of this clause is taken to have been made
under this Act as amended by the University Legislation
(Amendment) Act 1994, but only to the extent to which it
could have been made under this Act if this Act had been so
amended at the time the rule was made.
