



Universities Governing Bodies (Charles Sturt University) Order 2012

under the

Universities Governing Bodies Act 2011

I, the Minister for Education, in pursuance of section 4 of the *Universities Governing Bodies Act 2011*, and at the request of the Council of the Charles Sturt University, make the following Order.

Dated, this 10th day of May 2012.

ADRIAN PICCOLI, MP
Minister for Education

Explanatory note

The objects of this Order are:

- (a) to give notice of the terms of a governing body resolution made by the Council of the Charles Sturt University under section 4 of the *Universities Governing Bodies Act 2011*, and
- (b) to set out the resultant amendments and necessary changes to the *Charles Sturt University Act 1989* and the by-laws made under it specified in section 4 (4) (b) and (c) of the *Universities Governing Bodies Act 2011*.

This Order is made under section 4 of the *Universities Governing Bodies Act 2011*.

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Contents

	Page
1 Name of Order	3
2 Commencement	3
3 Notice of terms of governing body resolution and day on which it has effect	3
4 Amendments to Charles Sturt University legislation	4
Schedule 1 Amendment of Charles Sturt University Act 1989 No 76	5
Schedule 2 Amendment of Charles Sturt University By-law 2005	12

Universities Governing Bodies (Charles Sturt University) Order 2012

under the

Universities Governing Bodies Act 2011

1 Name of Order

This Order is the *Universities Governing Bodies (Charles Sturt University) Order 2012*.

2 Commencement

This Order commences on the day it is published on the NSW legislation website.

3 Notice of terms of governing body resolution and day on which it has effect

- (1) Notice is given that on 15 December 2011 the Council of the Charles Sturt University passed a governing body resolution in the following terms:
1. Pursuant to section 4 (1) (a) of the *Universities Governing Bodies Act 2011* the replaceable provisions of the *Charles Sturt University Act 1989* are displaced and the standard governing body provisions (set out in Schedule 1 of the *Universities Governing Bodies Act 2011*) are adopted.
 2. In accordance with section 4 (1) (b) of the *Universities Governing Bodies Act 2011*, the following constitution rules are prescribed, for the purposes of the standard governing body provisions:
 - (a) the total number of members of the Council is 15, and
 - (b) the total number of members in each category is:
 - (i) 3 official members, and
 - (ii) 3 elected members (being 1 academic staff member, 1 general staff member and 1 student member), and
 - (iii) 7 Council appointed members, and
 - (iv) 2 members appointed by the Minister, and
 - (c) the minimum number of external members who must be graduates of the University is 4. They will become members by appointment by the Council.

2012 No 193

Clause 4 Universities Governing Bodies (Charles Sturt University) Order 2012

3. Written advice is to be given to the Minister together with a request that the Minister make an order in accordance with section 4 of the *Universities Governing Bodies Act 2011* that will give effect to the governing body resolution.
- (2) The governing body resolution referred to in subclause (1) has effect on 1 July 2012.

4 Amendments to Charles Sturt University legislation

- (1) In accordance with section 4 (4) of the *Universities Governing Bodies Act 2011*, the amendments to the *Charles Sturt University Act 1989* and *Charles Sturt University By-law 2005* set out in Schedule 1 (other than Schedule 1 [7]) and Schedule 2, respectively, commence on 1 July 2012.
- (2) Schedule 1 [7] commences on the day this Order is published on the NSW legislation website.

Schedule 1 Amendment of Charles Sturt University Act 1989 No 76

[1] Sections 8A and 9

Omit the sections. Insert instead:

Division 1 The Council

8A Definitions

In this Division:

appointed member means a Council appointed member or a Ministerially appointed member.

categories of members—see section 8C (3).

constitution rules—see section 8C (4).

Council appointed member—see section 8G.

elected member—see section 8E.

external person means a person other than a member of the academic or general staff of the University or an undergraduate or graduate student of the University.

graduate member—see section 8F.

Ministerially appointed member—see section 8H.

official member—see section 8I.

8B Council

- (1) There is to be a Council of the University.
- (2) The Council is the governing authority of the University and has the functions conferred or imposed on it by or under this Act.
- (3) Schedule 1 has effect in relation to the members and procedure of the Council.

8C Size of Council

- (1) The Council is to consist of a minimum of 11, and a maximum of 22, members.
- (2) The total number of members is to be determined from time to time by a resolution passed by at least two-thirds of the members of the Council (the *total number of members*).

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Schedule 1 Amendment of Charles Sturt University Act 1989 No 76

- (3) The Council is to include the following categories of members:
 - (a) official members,
 - (b) elected members,
 - (c) Council appointed members,
 - (d) Ministerially appointed members.
- (4) Subject to subsection (6), the number of members (other than official members) in each category is to be prescribed by rules made by the Council (in this Division called the *constitution rules*).
- (5) A rule for the purposes of subsection (4) may be made only by a resolution passed by at least two-thirds of the members of the Council.
- (6) The majority of the total number of members must be external persons.

Note. Depending on the circumstances, the Chancellor may be counted as an external person for the purposes of subsection (6).
- (7) The number of members in any one category of members must not at any time constitute a majority of the total number of members.
- (8) The Council must give the Minister written notice of the terms of any resolution passed under this section within 7 days after it is passed.

8D Qualifications and experience of members

- (1) Of the members of the Council:
 - (a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and
 - (b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).
- (2) All appointed members must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.

8E Elected staff and student members

- (1) The constitution rules are to prescribe the number of persons to comprise the following categories of members:
 - (a) elected (academic staff) members,
 - (b) elected (general staff) members,
 - (c) elected (student) members.

Note. There may also be elected (graduate) members if the constitution rules so provide—see section 8F.

- (2) Of the members elected under this section:
 - (a) at least one must be a member of the academic staff of the University elected by members of the academic staff, and
 - (b) at least one must be a member of the general staff of the University elected by members of the general staff, and
 - (c) at least one must be a student of the University who:
 - (i) is not employed on a full-time basis (or on such other basis as the by-laws may prescribe) as a member of the academic or general staff of the University, and
 - (ii) is elected by the students of the University.
- (3) The members referred to in subsection (2) (a)–(c) are:
 - (a) to have such qualifications as may be prescribed by the by-laws, and
 - (b) to be elected in the manner prescribed by the by-laws.

8F Graduate members

- (1) At least one member of the Council, or such greater number of members as may be prescribed by the constitution rules, must be external persons who are graduates of the University.
- (2) The constitution rules may provide for the persons referred to in subsection (1) to become members of the Council in any one or more (or combination) of the following ways:
 - (a) by election as elected (graduate) members in the manner prescribed by the by-laws,
 - (b) by appointment by the Council under section 8G,
 - (c) by appointment by the Minister under section 8H.
- (3) A rule providing for the appointment of a member by the Minister under section 8H may be made only with the approval of the Minister.

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Schedule 1 Amendment of Charles Sturt University Act 1989 No 76

- (4) The members referred to in subsection (1) are to have such qualifications (if any) as may be prescribed by the by-laws.

8G Council appointed members

- (1) The Council may appoint as members of the Council such number of external persons as is prescribed by the constitution rules for the category of Council appointed members.
- (2) The by-laws are to prescribe the procedures for the nomination of persons for appointment under this section.

8H Ministerially appointed members

- (1) The Minister may appoint as members of the Council 2 external persons, or such greater number of external persons (not exceeding 6) as is prescribed by the constitution rules for the category of Ministerially appointed members.
- (2) The Minister may not appoint a member of the Parliament of New South Wales, the Parliament of the Commonwealth or another State or the Legislative Assembly of a Territory as a Ministerially appointed member.
- (3) Without limiting the discretion of the Minister under subsection (1), the Council may suggest to the Minister persons who the Council considers would be appropriate for appointment by the Minister.

8I Official members

The *official members* of the Council are the following:

- (a) the Chancellor,
- (b) the Vice-Chancellor,
- (c) the person for the time being holding the office of President of the Academic Senate (if the person is not the Vice-Chancellor) or of Deputy President of the Academic Senate (if the President is the Vice-Chancellor).

9 Term of office

- (1) Subject to this Act, a member of the Council holds office as follows:
- (a) in the case of an official member, while the member holds the office by virtue of which he or she is a member,
- (b) in the case of a Ministerially appointed member or Council appointed member, for such term (not exceeding 4 years)

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- as may be specified in the member's instrument of appointment,
- (c) in the case of an elected member other than an elected (graduate) member, for such term (not exceeding 2 years) as may be prescribed by the by-laws,
 - (d) in the case of an elected (graduate) member, for such term (not exceeding 4 years) as may be prescribed by the by-laws.
- (2) The need to maintain an appropriate balance of experienced and new members on the Council must be taken into account:
- (a) by the Council, when making the by-laws required under this section, and
 - (b) by the Minister and the Council, when appointing members to the Council.
- (3) A person must not be appointed or elected to serve more than 12 consecutive years of office (unless the Council otherwise resolves in relation to the person).

Division 2 Other officers and bodies

[2] Section 32 Rules

Omit "9 (1) (c)–(g) and (8)" from section 32 (1).

Insert instead "8C, 8E, 8F, 8G, 8H, 9 (1) (c) and (d)".

[3] Section 32 (1)

Omit "clauses 1 (1) (c) and (d) and 3". Insert instead "clause 3".

[4] Schedule 1 Provisions relating to members and procedure of the Council

Omit the clause reference "(Section 9)". Insert instead "(Section 8B (3))".

[5] Schedule 1

Omit clause 1.

[6] Schedule 1

Omit "section 9 (1) (g)" from clause 2 (j). Insert instead "section 8F".

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Schedule 1 Amendment of Charles Sturt University Act 1989 No 76

[7] Schedule 4 Savings and transitional provisions

Insert after clause 46:

Part 7 Provisions consequent on adoption of standard governing body provisions

47 Adoption of standard governing body provisions under the Universities Governing Bodies Act 2011

- (1) Terms used in this clause and also in the *Universities Governing Bodies Act 2011* have the same meanings in this clause as they have in that Act.
- (2) In this clause:
amended provision means the provisions of this Act and the by-laws amended as set out in an order made by the Minister under section 4 of the *Universities Governing Bodies Act 2011* and the constitution rules as prescribed in the resolution of the Council referred to in that order.
existing appointed member of the Council means a member of the Council as constituted immediately before the governing body resolution took effect who was appointed by the Minister or the Council.
Note. The governing body resolution took effect on 1 July 2012.
governing body resolution means the governing body resolution passed by the Council on 15 December 2011.
- (3) An existing appointed member of the Council continues in office until the expiration of the term for which the member was appointed (subject to the member's office becoming vacant earlier for a reason other than the expiration of the member's term of office).
- (4) For the purposes of subclause (3):
 - (a) an existing appointed member is taken to be a member of the corresponding category of membership set out in the amended provisions, and
 - (b) the proportion of Council and Ministerially appointed members of the Council specified under the constitution rules is, until all existing members of that category cease to hold office as referred to in subclause (3), taken to be the number of existing members in those categories at any particular time.

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- (5) A person who, immediately before the governing body resolution took effect, held office as an elected member of the Council ceases to hold office on the resolution taking effect.
 - (6) For the purpose only of enabling the Council to be duly constituted on or after the governing body resolution takes effect, elections for the categories of elected (academic staff) member, elected (general staff) member and elected (student) member of the Council may be conducted as if the amended provisions were in force.
 - (7) Subclause (6) has effect despite any requirements of the amended provisions that elections be held at a specified time.

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Schedule 2 Amendment of Charles Sturt University By-law 2005

Schedule 2 Amendment of Charles Sturt University By-law 2005

[1] Clause 2 Definitions

Omit the definitions of *Council Nominations Committee*, *elected member*, *election* and *external person* from clause 2 (1).

Insert instead in appropriate alphabetical order:

elected (academic staff) member means a member of the Council referred to in section 8E (1) (a) of the Act.

elected (general staff) member means a member of the Council referred to in section 8E (1) (b) of the Act.

elected (student) member means a member of the Council referred to in section 8E (1) (c) of the Act.

election:

- (a) in Part 2—means an election under section 10 or 11 of the Act, or
- (b) in Part 3—means an election under section 8E (2) (a), (b) or (c) of the Act.

[2] Part 3 Election and appointment of members of Council

Omit the note after the heading to the Part. Insert instead:

Note. Section 8C of the Act provides that the Council is to consist of a minimum of 11, and a maximum of 22, members, with the total number of members being determined from time to time by a resolution passed by at least two-thirds of the members of the Council. The Council resolved on 15 December 2011 that there are to be a total of 15 members. Under section 8C (3) and (4), the Council is to consist of 3 official members, 3 elected members (being one student, one member of the academic staff and one member of the general staff), 7 members appointed by the Council (4 of whom must be external persons who are graduates of the University) and 2 members appointed by the Minister. This Part provides for the election and appointment of members of the Council under sections 8E, 8G and 8H of the Act.

[3] Part 3, Divisions 1 and 2

Omit the Divisions.

[4] Part 3, Division 3

Omit “section 9 (1) (c)” from the heading to the Division.

Insert instead “section 8G”.

[5] Part 3, Division 3

Omit the note under the heading to the Division. Insert instead:

Note. Sections 8F (2) (b) and 8G of the Act and the constitution rules provide for the Council to appoint 7 external persons as members of the Council (4 of whom must be graduates of the University). This Division prescribes the procedures for inviting nominations for the Council appointments.

[6] Clause 29 Appointment of external persons under section 9 (1) (c)

Omit the clause.

[7] Clauses 30, 31, 33, 34 and 42–45

Omit “section 9 (1) (c)” wherever occurring. Insert instead “section 8G”.

[8] Clause 30 Inviting nominations

Omit “external persons to apply” from clause 30 (1).

Insert instead “nominations from external persons”.

[9] Clause 30 (2) (c) and (d)

Omit “the applicant” wherever occurring. Insert instead “the nominee”.

[10] Clause 30 (2) (c1)

Insert after clause 30 (2) (c):

- (c1) in the case of a vacancy in the office of a person referred to in section 8F (2) (b) of the Act—state that the nominee must be a graduate of the University, and

[11] Clause 30 (2) (d)

Omit “the application”. Insert instead “the nomination”.

[12] Clause 30 (2) (e) and (f)

Omit “applications” wherever occurring. Insert instead “nominations”.

[13] Clause 31 Persons may be invited to nominate for appointment

Omit “, or the Council Nominations Committee,”.

[14] Clause 32

Omit the clause. Insert instead:

32 Current members may nominate

Subject to the Act, a current member of the Council may nominate for re-appointment to the Council under section 8G of

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Schedule 2 Amendment of Charles Sturt University By-law 2005

the Act and any such nomination is to be considered on the same terms as other nominations.

[15] Clause 33 Making of nominations

Omit “An application”. Insert instead “A nomination”.

[16] Clause 33 (a)

Omit “application”. Insert instead “nomination”.

[17] Clause 33 (b)

Omit “applicant”. Insert instead “nominee”.

[18] Clause 33 (d)

Omit “applications”. Insert instead “nominations”.

[19] Clause 34 Declaration by nominees

Omit “applicants”. Insert instead “nominees”.

[20] Clause 34 (a)

Omit “applicant’s”. Insert instead “nominee’s”.

[21] Clause 34 (b)

Omit “applicant” wherever occurring. Insert instead “nominee”.

[22] Clause 34 (c)

Omit “Council Nominations Committee”. Insert instead “Secretary”.

[23] Clauses 35, 36, 38 and 40

Omit the clauses.

[24] Clause 37

Omit the clause. Insert instead:

37 Procedures where positions remain vacant

If the Council decides not to make an appointment to a vacant position under section 8G of the Act from persons who nominated for that appointment, the Council must request the Secretary to issue a new invitation for nominations from external persons following the procedures set out in this Division.

[25] Clause 39 Casual vacancy

Omit the clause.

[26] Clause 41 Decision is final

Omit “, the Council Nominations Committee”.

[27] Clause 42 Appointment not invalidated because of certain errors

Omit “applications” from clause 42 (a). Insert instead “nominations”.

[28] Clause 42 (c)

Omit “or the Council Nominations Committee”.

[29] Part 3, Division 4, heading

Omit “section 9 (1) (d), (e) and (f)”.

Insert instead “section 8E (2) (a), (b) and (c)”.

[30] Clause 46

Omit the clause. Insert instead:

46 Operation of Division

This Division sets out the method of the election of:

- (a) 1 person who is to be the elected (academic staff) member of the Council under section 8E (1) (a) of the Act, and
- (b) 1 person who is to be the elected (general staff) member of the Council under section 8E (1) (b) of the Act, and
- (c) 1 person who is to be the elected (student) member of the Council under section 8E (1) (c) of the Act.

[31] Clause 48 Returning officer

Insert after clause 48 (3):

- (4) The Secretary may appoint deputy returning officers and confer on any such deputy returning officer all or any of the functions of a returning officer under this Division. A decision of a deputy returning officer appointed under this clause is taken to be a decision of the returning officer.
- (5) The Secretary may appoint one or more poll officers for the purposes of any election under this Division and confer on any such poll officer such functions with respect to the election as may be necessary or convenient for the conduct of the election.

[32] Clause 49 Rolls of electors

Omit “section 9 (1) (d)” from clause 49 (1) (a).

Insert instead “section 8E (1) (a)”.

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Schedule 2 Amendment of Charles Sturt University By-law 2005

[33] Clause 49 (1) (b)

Omit “section 9 (1) (e)”. Insert instead “section 8E (1) (b)”.

[34] Clause 49 (2)

Omit the subclause. Insert instead:

- (2) The Executive Director, Student Administration of the University is to prepare, at least 1 week before the close of nominations for an election under section 8E (1) (c) of the Act, a Roll of Students containing the last known addresses of students of the University.

[35] Clause 49 (5) and (6)

Omit the subclauses. Insert instead:

- (5) A person is entitled to have his or her name entered on the Roll of Students if that person is enrolled as a candidate in a course of studies leading to an undergraduate or postgraduate degree or other award.

[36] Clause 49 (8A) (c) and (d)

Omit the paragraphs. Insert instead:

- (c) the Roll of Students.

[37] Clause 50 Qualifications for candidates

Omit “of an academic staff member under section 9 (1) (d)” from clause 50 (a).

Insert instead “of the elected (academic staff) member under section 8E (1) (a)”.

[38] Clause 50 (b)

Omit “of a general staff member under section 9 (1) (e)”.

Insert instead “of the elected (general staff) member under section 8E (1) (b)”.

[39] Clause 50 (c) and (d)

Omit the paragraphs. Insert instead:

- (c) in the case of the election of the elected (student) member under section 8E (1) (c) of the Act—the candidate, as at the close of the nominations for that election, must:
 - (i) be enrolled in a course of studies of a least 2 years’ duration leading to an undergraduate award or a postgraduate award, and
 - (ii) have his or her name entered on the Roll of Students.

[40] Clause 50A Qualifications for voters

Omit “of an academic staff member under section 9 (1) (d)” from clause 50A (1).

Insert instead “of the elected (academic staff) member under section 8E (1) (a)”.

[41] Clause 50A (2)

Omit “of a general staff member under section 9 (1) (e)”.

Insert instead “of the elected (general staff) member under section 8E (1) (b)”.

[42] Clause 50A (3) and (4)

Omit the subclauses. Insert instead:

- (3) A person whose name is on the Roll of Students at the close of nominations for an election of the elected (student) member under section 8E (1) (c) of the Act is entitled to vote in that election.

[43] Clause 51 Timing of election

Omit “section 9 (1) (d), (e) or (f)” from clause 51 (1).

Insert instead “section 8E (1) (a), (b) or (c)”.

[44] Clause 52 Election intervals for different stages of election process

Omit “section 9 (1) (d) or (e)” from clause 52 (1).

Insert instead “section 8E (1) (a) or (b)”.

[45] Clause 52 (2)

Omit “section 9 (1) (f)”. Insert instead “section 8E (1) (c)”.

[46] Clause 54 Information to be given in notice of election

Omit “section 9 (1) (d), (e) or (f)” from clause 54 (b).

Insert instead “section 8E (1) (a), (b) or (c)”.

[47] Clause 54 (d)

Omit “of candidates”. Insert instead “from candidates”.

[48] Clause 54 (h)

Omit “section 9(1) (f)”. Insert instead “section 8E (1) (c)”.

2012 No 193

Universities Governing Bodies (Charles Sturt University) Order 2012

Schedule 2 Amendment of Charles Sturt University By-law 2005

[49] Clause 54 (h) (i) and (ii)

Omit the subparagraphs. Insert instead:

- (i) state that a student is not eligible to vote or stand as a candidate in an election for the elected (student) member unless the student's name is on the Roll of Students, and

[50] Clause 54 (h) (iii), (iv) and (v)

Renumber the subparagraphs as subparagraphs (ii), (iii) and (iv), respectively.

[51] Clause 55 Nomination of candidates for election

Omit "be nominated" from clause 55 (1). Insert instead "nominate".

[52] Clause 55 (2)

Omit "for each". Insert instead "by each".

[53] Clause 55 (3)

Omit the subclause. Insert instead:

- (3) A nomination form must be:
 - (a) signed by the candidate, and
 - (b) endorsed and signed by at least 2 other persons who are entitled to vote in the election concerned.

[54] Clause 56 Procedure after close of nominations

Omit "duly nominated" wherever occurring.

Insert instead "that duly nominate".

[55] Clause 57 Conduct of ballot for election of elected (academic staff) member and elected (general staff) member

Omit "academic staff member or a general staff member under section 9 (1) (d) or (e)" from clause 57 (1).

Insert instead "elected (academic staff) member or elected (general staff) member under section 8E (1) (a) or (b)".

[56] Clause 58 Conduct of ballot of student members

Omit clause 58 (1). Insert instead:

- (1) If a poll is required for an election of an elected (student) member of the Council under section 8E (1) (c) of the Act, the returning officer is to arrange a poll.

[57] Clause 58 (2) (a)

Insert “at such polling places as the returning officer determines” after “polling day”.

[58] Clause 70 Determination of election result where more than one candidate is to be elected

Omit the clause.

[59] Clause 73 Filling of casual vacancy

Omit “academic staff member, general staff member, undergraduate member or postgraduate member” from clause 73 (1).

Insert instead “elected (academic staff) member, elected (general staff) member or elected (student) member”.

[60] Part 3, Divisions 5 and 6

Omit the Divisions.

[61] Part 6 Rules

Omit “9 (1) (c)–(g) and (8)” from the note appearing under the heading to the Part.

Insert instead “8C,8E–8H, 9 (1) (c) and (d)”.

[62] Part 6, note

Omit “clauses 1 (1) (c) and (d) and 3”. Insert instead “clause 3”.