



New South Wales

# Universities Governing Bodies (University of Technology, Sydney) 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*, make the following Order.

Dated, this 10th day of September 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 University of Technology, Sydney, under section 4 of the *Universities Governing Bodies Act 2011*, and
- (b) to set out the resultant amendments and necessary changes to the *University of Technology, Sydney, 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 the *Universities Governing Bodies Act 2011* including sections 4 and 5 (the general regulation-making power) and clause 1 of Schedule 2.

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## **Universities Governing Bodies (University of Technology, Sydney) Order 2012**

under the

Universities Governing Bodies Act 2011

### **1 Name of Order**

This Order is the *Universities Governing Bodies (University of Technology, Sydney) Order 2012*.

### **2 Commencement**

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

### **3 Notice of governing body resolution**

Notice is given that on 18 April 2012 the Council of the University of Technology, Sydney, passed a governing body resolution in the following terms:

- (a) to opt into the Standard Governing Body provisions as detailed in Schedule 1 of the *Universities Governing Bodies Act 2011*,
- (b) for the purposes of the Standard Governing Body Provisions in the *Universities Governing Bodies Act 2011 (UGB Act)*:
  - (i) the total number of members of Council be twenty (20),
  - (ii) the number of members in each category be:
    - (A) Official members—three (3),
    - (B) Ministerial appointments—two (2),
    - (C) Council appointments—ten (10), including two (2) convocation members,
    - (D) Elected academic staff—two (2),
    - (E) Elected non-academic staff—one (1),
    - (F) Elected students—two (2), of which one (1) being an undergraduate student and one (1) a postgraduate student.

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**Schedule 1 Amendment of University of Technology,  
Sydney, Act 1989 No 69**

**[1] Sections 8 and 9**

Omit the sections. Insert instead:

**Division 1 The Council**

**8 Definitions**

In this Division:

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

*categories of members*—see section 8B (3).

*constitution rules*—see section 8B (4).

*elected member*—see section 8D.

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

*Council appointed member*—see section 8F.

*graduate member*—see section 8E.

*Ministerially appointed member*—see section 8G.

*official member*—see section 8H.

**8A 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.

**8B 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*).
- (3) The Council is to include the following categories of members:
  - (a) official members,

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- (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.

#### **8C 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.

#### **8D 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,

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(b) elected (non-academic staff) members,

(c) elected (student) members.

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

(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 non-academic staff of the University elected by members of the non-academic 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 non-academic 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.

### 8E 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 8F,

(c) by appointment by the Minister under section 8G.

(3) A rule providing for the appointment of a member by the Minister under section 8G may be made only with the approval of the Minister.

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

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**8F 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.

**8G 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.

**8H 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 presiding member of the Academic Board (if the person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member 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) as may be specified in the member's instrument of appointment,

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- (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 29 Rules**

Omit “9 (1) (c)–(h) and (8)” from section 29 (1).

Insert instead “8B, 8D, 8E and 8F”.

**[3] Schedule 1 Provisions relating to members and procedures of the Council**

Omit the clause reference “(Section 9)”. Insert instead “(Section 8A (3))”.

**[4] Schedule 1**

Omit clause 1.

**[5] Schedule 1**

Omit “section 9 (1) (h)” from clause 2 (j). Insert instead “section 8E”.



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[6] **Schedule 3 Savings and transitional provisions**

Insert after clause 20:

**Part 5 Provisions consequent on adoption of  
standard governing body provisions**

**21 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 meaning in this clause as they have in that Act.
- (2) In this clause:  
*amended provision* means a provision of this Act and the by-laws as amended by the *Universities Governing Bodies (University of Technology, Sydney) Order 2012*.  
*existing appointed member* of the Council means a member of the Council as constituted immediately before the governing body resolution took effect.  
*governing body resolution* means the governing body resolution passed by the Council on 18 April 2012.
- (3) An existing appointed member of the Council continues in office until the expiration of the term for which the member was to hold office immediately before the governing body resolution took effect (subject to the member's office becoming vacant earlier for a reason other than the expiration of the member's term of office).
- (4) The proportion of Council and Ministerially appointed members of the Council specified under the constitution rules is, until all existing appointed members of that category cease to hold office as referred to in subclause (3), taken to be the number of existing appointed members in those categories at any particular time.
- (5) A requirement of the by-laws relating to the time within which persons who may be suitable for appointment as a Council or Ministerially appointed member of the Council are required to be identified or recommended, does not apply in respect of the nomination of a person for appointment to fill a vacancy in the office of an existing appointed member.
- (6) A person who, immediately before the governing body resolution took effect, held office as an elected member of the Council is taken to have been elected under the corresponding category of membership set out in amended provisions.

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**Schedule 2 Amendment of University of Technology,  
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**[1] Clause 3 Definitions**

Omit the definitions of *academic staff member*, *external persons*, *non-academic staff member*, *postgraduate student member* and *undergraduate student member* from clause 3 (1).

Insert instead in alphabetical order:

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

*elected (non-academic staff) member* means a member of the Council referred to in section 8D (1) (b) of the Act.

*elected (postgraduate student) member* means a member of the Council referred to in section 8D (1) (c) of the Act who is a postgraduate student of the university.

*elected (undergraduate student) member* means a member of the Council referred to in section 8D (1) (c) of the Act who is an undergraduate student of the university.

**[2] Clause 6 Rolls**

Omit “section 9 (1) (d)” from clause 6 (a). Insert instead “section 8D (1) (a)”.

**[3] Clause 6 (b)**

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

**[4] Clause 6 (c)**

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

**[5] Clause 6 (d)**

Omit “section 9 (1) (g)”. Insert instead “section 8D (1) (c)”.

**[6] Clause 7**

Omit the clause. Insert instead:

**7 Qualification for elected (academic staff) member**

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (academic staff) member, the prescribed qualification is that the person’s name is entered on the Roll of Academic Staff at the close of nominations for the election.

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**[7] Clause 8**

Omit the clause. Insert instead:

**8 Qualification for election as elected (non-academic staff) member**

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (non-academic staff) member, the prescribed qualification is that the person's name is entered on the Roll of Non-Academic Staff at the close of nominations for the election.

**[8] Clause 9**

Omit the clause. Insert instead:

**9 Qualification for election as elected (undergraduate student) member**

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (student) member who is an undergraduate student of the University, the prescribed qualification is that the person's name is entered on the Roll of Undergraduate Students at the close of nominations for the election.

**[9] Clause 10**

Omit the clause. Insert instead:

**10 Qualification for election as elected (postgraduate student) member**

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (student) member who is a postgraduate student of the University, the prescribed qualification is that the person's name is entered on the Roll of Postgraduate Students at the close of nominations for the election.

**[10] Clause 14**

Omit the clause. Insert instead:

**14 Dealing with nominations**

- (1) If the number of nominations of persons for election to any of the following categories is less than or equal to the number of vacancies in the relevant category, the Returning Officer is to declare the person or persons nominated to be elected:
  - (a) the elected (academic staff) member,
  - (b) the elected (non-academic staff) member,

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(c) the elected (undergraduate student) member,

(d) the elected (postgraduate student) member.

- (2) If the number of nominations accepted in a category referred to in subclause (1) is greater than the number of vacancies in the category, there must be a ballot in the category concerned.

### [11] **Clause 16 Conduct of ballot**

Omit “academic or non-academic staff member” from clause 16 (1).

Insert instead “elected (academic staff) member or elected (non-academic staff) member”.

### [12] **Clause 16 (2)**

Omit “undergraduate or postgraduate student member”.

Insert instead “elected (undergraduate student) member or elected (postgraduate student) member”.

### [13] **Clause 20 Voting at staff elections**

Omit “academic or non-academic staff member” from clause 20 (1).

Insert instead “elected (academic staff) member or elected (non-academic staff) member”.

### [14] **Clause 21 Voting at student elections**

Omit “undergraduate or postgraduate student member” from clause 21 (1).

Insert instead “elected (undergraduate student) member or elected (postgraduate student) member”.

### [15] **Clause 28**

Omit the clause. Insert instead:

#### **28 Term of office of elected members of Council**

- (1) For the purposes of section 9 (1) (c) of the Act, a member of Council elected under section 8D (1) (a), (b) or (c) of the Act holds office for 2 years.
- (2) For the purposes of section 9 (1) (d) of the Act, a member of Council elected under section 8E of the Act holds office for 2 years.

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- [16] Clause 29 Casual vacancy in office of elected member of Council**  
Omit “section 9 (1) (d), (e), (f) or (g)” from clause 29 (1) wherever occurring.  
Insert instead “section 8D (1) (a), (b) or (c)”.
- [17] Clause 31 Number of members appointed under section 9 (1) (c)**  
Omit the clause.
- [18] Clause 32 Number of members appointed under section 9 (1) (h)**  
Omit the clause.
- [19] Clause 33 Nominations Committee**  
Omit clause 33 (1) (c) (i) and (ii). Insert instead:
- (i) one must be a member appointed by the Minister,  
and
  - (ii) one must be a member appointed by the Council.
- [20] Clause 34 Nominations procedure relating to appointments under sections 8F and 8G**  
Omit “section 9 (1) (b) or (c)” from clause 34 (1).  
Insert instead “section 8F or 8G”.
- [21] Clause 34 (2) (a) (i) and (9)**  
Omit “nomination” wherever occurring. Insert instead “suggestion”.
- [22] Clause 34 (3) (b)**  
Omit “section 9 (5) and (6)”. Insert instead “section 8C”.
- [23] Clause 34 (4) (b) (i)**  
Omit “nominated”. Insert instead “suggested”.
- [24] Clause 35 Nominations procedure relating to appointments under section 9 (1) (h)**  
Omit the clause.
- [25] Clause 36 Casual vacancy in the office of an appointed member of Council**  
Omit “section 9 (1) (b)” from clause 36 (1). Insert instead “section 8F or 8G”.

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**[26] Clause 36 (2)**

Omit the subsection.

**[27] Clause 36 (3)**

Omit “clauses 34 and 35”. Insert instead “clause 34”.