



New South Wales

Universities Governing Bodies (Southern Cross University) Order 2015

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 20th day of February 2015.

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 Southern Cross University under section 4 of the *Universities Governing Bodies Act 2011*, and
- (b) to set out the resultant amendments and necessary changes to the *Southern Cross University Act 1993* 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*.

Universities Governing Bodies (Southern Cross University) Order 2015

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1 Name of Order

This Order is the *Universities Governing Bodies (Southern Cross University) Order 2015*.

2 Commencement

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

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

Notice is given that on 1 August 2014 the Council of the Southern Cross University passed a governing body resolution in the following terms:

- (a) to displace the replaceable provisions of the *Southern Cross University Act 1993* and adopt instead the standard governing body provisions,
- (b) that the Council's constitution rules are to state that the Council is to consist of 15 members in the following categories of members:

Official members	3
Ministerially appointed members	2
Council appointed members	6
Elected members - academic staff	2
Elected member - non-academic staff	1
Elected member - student	1

Two of the six 'Council appointed members' are to be external persons who are graduates of the University

4 Amendments to Southern Cross University legislation

In accordance with section 4 (4) of the *Universities Governing Bodies Act 2011*, the amendments to the *Southern Cross University Act 1993* and *Southern Cross University By-law 2005* set out in Schedules 1 and 2, respectively, commence on the commencement of this Order.

Schedule 1 **Amendment of Southern Cross University Act 1993 No 69**

[1] **Part 3 The Council, authorities and officers of the University**

Omit sections 9 and 10. Insert instead:

Division 1 The Council

9 Definitions

In this Division:

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

categories of members—see section 9B (3).

constitution rules—see section 9B (4).

Council appointed member—see section 9F.

elected member—see section 9D.

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.

graduate member—see section 9E.

Ministerially appointed member—see section 9G.

official member—see section 9H.

9A The 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.

9B 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,
 - (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.

9C 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.

9D 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 (non-academic staff) members,
 - (c) elected (student) members.**Note.** There may also be elected (graduate) members if the constitution rules so provide—see section 9E.
- (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.

9E 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 9F,
 - (c) by appointment by the Minister under section 9G.
- (3) A rule providing for the appointment of a member by the Minister under section 9G 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.

9F 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.

9G 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.

9H 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).

10 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,
 - (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 30 Rules

Omit “10 (1) (c), (d) (ii), (e) (ii), (f) (ii), (g) (ii) and (8), 11 (2), 16 (1) (d) and (e), 24 and 29 (1) (k) and clause 1 (1) (c) and (d) of Schedule 1 and clause 3 of that Schedule” from section 30 (1).

Insert instead “9D (3) (a), 9E (4), 9F (2), 10 (1) (c) and (d), 11 (2), 16 (1) (d) and (e), 24 and 29 (1) (k) and clause 3 of Schedule 1”.

[3] Section 30 (1A)

Omit “10 (1) (d) (iii), (e) (iii), (f) (iii) and (g) (iii)”. Insert instead “9D (3) (b), 9E (2) (a)”.

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

Omit “(Section 10)”. Insert instead “(Section 9A (3))”.

[5] Schedule 1, clause 1

Omit the clause.

[6] Schedule 1, clause 2 (j)

Omit “under section 10 (1) (g)”. Insert instead “pursuant to section 9E (2) (b)”.

[7] Schedule 1, clause 2 (l)

Insert “(other than a graduate member)” after “member”.

[8] Schedule 3 Savings and transitional provisions

Insert after clause 42:

Part 10 Provisions consequent on adoption of standard governing body provisions

43 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 a provision 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*.
- existing member** of the Council means a member of the Council as constituted immediately before the governing body resolution took effect.
- Note.** The governing body resolution took effect on the day on which the *Universities Governing Bodies (Southern Cross University) Order 2015* commenced.
- former section 10 (1) (c)** means that paragraph as in force immediately before the commencement of the *Universities Governing Bodies (Southern Cross University) Order 2015*.
- governing body resolution** means the governing body resolution made by the Council on 1 August 2014.
- (3) An existing member of the Council continues in office until the expiration of the term for which the member was appointed or elected (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 member appointed by the Council under former section 10 (1) (c) who is a graduate of the University and designated by the Council for the purposes of this paragraph is taken to be a graduate member appointed by the Council pursuant to section 9E (2) (b) of the amended provisions, and
 - (b) any other existing member is taken to be a member of the corresponding category of membership set out in the amended provisions.

Schedule 2 Amendment of Southern Cross University By-law 2005

[1] Clause 9

Omit the clause. Insert instead:

9 Terms of office of elected members of Council

- (1) For the purposes of section 10 (1) (c) of the Act, the prescribed term for which an elected member holds office is 2 years commencing on 9 September in the year of the election.
- (2) Subject to the Act and this By-law, a person elected as a Council member is eligible for re-election when his or her term expires.

[2] Clause 11 Rolls

Omit “10 (1) (d)” from clause 11 (1) (a). Insert instead “9D (1) (a)”.

[3] Clause 11 (1) (b)

Omit “10 (1) (e)”. Insert instead “9D (1) (b)”.

[4] Clause 11 (1) (c)

Omit “10 (1) (f)”. Insert instead “9D (1) (c)”.

[5] Clause 13 Qualification for election as an elected (academic staff) member

Omit “10 (1) (d) (ii) of the Act, in respect of a person seeking election as an academic staff member”.

Insert instead “9D (3) (a) of the Act, in respect of a person seeking election as an elected (academic staff) member”.

[6] Clause 14 Qualification for election as an elected (non-academic staff) member

Omit “10 (1) (e) (ii) of the Act, in respect of a person seeking election as a non-academic staff member”.

Insert instead “9D (3) (a) of the Act, in respect of a person seeking election as an elected (non-academic staff) member”.

[7] Clause 15 Qualification for election as an elected (student) member

Omit “10 (1) (f) (ii) of the Act, in respect of a person seeking election as a student member”.

Insert instead “9D (3) (a) of the Act, in respect of a person seeking election as an elected (student) member”.

[8] Clause 16 Notice of election and call for nominations

Omit “a staff” from clause 16 (1) (a).

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

[9] Clause 16 (1) (b)

Omit “a student”. Insert instead “an elected (student)”.

[10] Clause 36

Omit the clause. Insert instead:

36 External persons appointed by the Council

- (1) Any person who is to be appointed under section 9F of the Act (including as a graduate member pursuant to section 9E of the Act) is to be appointed at a meeting of the Council convened by the Secretary to Council, of which the Secretary to Council has given at least 7 days' notice by posting or delivering to each member a notice stating:

- (a) the date, time and place of the meeting, and
(b) that an additional member is to be appointed at the meeting.

Note. Any external person appointed by the Council is to be appointed according to procedures determined by the Council (clause 6 (General procedure) of Schedule 1 to the Act).

- (2) Subject to the Act and this By-law, a person appointed as a Council member under section 9F of the Act is eligible for re-appointment when his or her term expires.

Note. Section 10 (1) (b) of the Act provides that a Council appointed member holds office for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment.

[11] Clause 37 Council Nominations Committee

Omit "(within the meaning of section 10 (10) of the Act)" from clause 37 (d).

[12] Clause 38 Nominations procedures relating to Council appointed members (other than graduate members)

Omit "member appointed under section 10 (1) (c) of the Act" from clause 38 (1).

Insert instead "Council appointed member (other than a graduate member)".

[13] Clause 39 Nominations procedures relating to Ministerially appointed members

Omit "member appointed under section 10 (1) (b) of the Act" from clause 39 (1).

Insert instead "Ministerially appointed member".

[14] Clause 40 Graduate members

Omit the clause.

[15] Clause 41 Roll of Graduates

Omit "10 (1) (g)". Insert instead "9E".

[16] Clause 42 Qualification for appointment as graduate member

Omit "10 (1) (g)". Insert instead "9E (4)".

[17] Clause 43 Proposing external persons for nomination for appointment as graduate members

Omit "10 (1) (g)" from clause 43 (1).

Insert instead "9F of the Act, pursuant to section 9E".

[18] Clause 45 Council to consider recommendations of Graduate Appointments Committee

Omit "10 (1) (g)" from clause 45 (b). Insert instead "9E".

[19] Clause 46 Elected Council members

Omit “a member of the Council elected pursuant to section 10 (1) of the Act” from clause 46 (1).

Insert instead “an elected member of the Council”.

[20] Clause 46 (1) (a)

Omit “10 (1)”. Insert instead “9F”.

[21] Clause 48 Appointed Council members

Insert “(other than a graduate member)” after “external person” where firstly occurring in clause 48 (1).