



New South Wales

# Universities Governing Bodies (University of Sydney) Order 2016

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 6th day of April 2016.

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 Senate of the University of 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 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 section 4 of the *Universities Governing Bodies Act 2011*.

## **Universities Governing Bodies (University of Sydney) Order 2016**

under the

Universities Governing Bodies Act 2011

### **1 Name of Order**

This Order is the *Universities Governing Bodies (University of Sydney) Order 2016*.

### **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**

(1) Notice is given that on 14 December 2015 the Senate of the University of Sydney passed a governing body resolution:

- (a) to displace the replaceable provisions in the *University of Sydney Act 1989*, namely sections 8 and 9 of, and clause 1 of Schedule 1 to, that Act and adopt in its place the standard governing body provisions as set out in Schedule 1 to the *Universities Governing Bodies Act 2011* where the reference to governing body shall be read as the Senate of the University of Sydney, and
- (b) to determine that the total number of members of the Senate shall be 15 and the total number of members in each category of those members shall be as follows:
  - (i) 3 official members:
    - (A) Chancellor,
    - (B) Vice-Chancellor,
    - (C) Chair of Academic Board,
  - (ii) 2 Ministerially appointed members,
  - (iii) 5 Senate appointed members,
  - (iv) 5 elected members, being:
    - (A) 2 academic staff, and
    - (B) 1 general staff, and
    - (C) 1 undergraduate student, and
    - (D) 1 postgraduate student,
  - (v) at least 4 of the Ministerially appointed members and Senate appointed members, taken together, are to be graduate members.

(2) The governing body resolution has effect on 1 December 2017.

### **4 Amendments to University of Sydney legislation**

(1) In accordance with section 4 (4) of the *Universities Governing Bodies Act 2011*, the amendments to the *University of Sydney Act 1989* and *University of Sydney By-law*

*1999* set out in Schedules 1 (other than Schedule 1 [6]) and 2, respectively, commence on 1 December 2017.

- (2) Schedule 1 [6] commences on the day on which this Order is published on the NSW legislation website.

## Schedule 1      **Amendment of University of Sydney Act 1989 No 124**

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

Omit sections 8 and 9. Insert instead:

#### **Division 1      The Senate**

##### **8    Definitions**

In this Division:

*appointed member* means a Senate 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.

*graduate member*—see section 8E.

*Ministerially appointed member*—see section 8G.

*official member*—see section 8H.

*Senate appointed member*—see section 8F.

##### **8A    Senate**

- (1) There is to be a Senate of the University.
- (2) The Senate 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 Senate.

##### **8B    Size of Senate**

- (1) The Senate 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 Senate (the *total number of members*).
- (3) The Senate is to include the following categories of members:
  - (a) official members,
  - (b) elected members,
  - (c) Senate 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 Senate (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 Senate.

- (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 Senate 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 Senate:
  - (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 Senate 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,
  - (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 Senate, 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 Senate 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 Senate 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.

**8F Senate appointed members**

- (1) The Senate may appoint as members of the Senate such number of external persons as is prescribed by the constitution rules for the category of Senate 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 Senate 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 Senate may suggest to the Minister persons who the Senate considers would be appropriate for appointment by the Minister.

**8H Official members**

The *official members* of the Senate 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 Board (if the person is not the Vice-Chancellor) or of Deputy President of the Academic Board (if the President is the Vice-Chancellor).

**9 Term of office**

- (1) Subject to this Act, a member of the Senate 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 Senate 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 Senate must be taken into account:
  - (a) by the Senate, when making the by-laws required under this section, and
  - (b) by the Minister and the Senate, when appointing members to the Senate.
- (3) A person must not be appointed or elected to serve more than 12 consecutive years of office (unless the Senate otherwise resolves in relation to the person).

## **Division 2 Other officers and bodies**

### **[2] Section 37 Rules**

Omit “9 (1) (d) (ii), (e) (ii), (f) (ii), (g) (ii) and (h) (ii), (6) and (8)” from section 37 (1).  
Insert instead “8D (3) (a), 8E (4), 8F (2), 9 (1) (c) and (d)”.

### **[3] Section 37 (1A)**

Omit “9 (1) (d) (iii), (e) (iii), (f) (iii), (g) (iii) and (h) (iii)”.  
Insert instead “8D (3) (b), 8E (2) (a)”.

### **[4] Schedule 1 Provisions relating to Fellows and to the procedure of the Senate**

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

### **[5] Schedule 1, clause 1**

Omit the clause.

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

Insert after clause 17:

#### **18 Provisions consequent on adoption of standard governing body provisions**

- (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 or the by-laws amended as set out in an order made by the Minister under section 4 of the *University Governing Bodies Act 2011*.

**existing Fellow** means a member of the Senate as constituted immediately before the governing body resolution took effect.

**Note.** The governing body resolution took effect on 1 December 2017.

**governing body resolution** means the governing body resolution passed by the Senate on 14 December 2015.
- (3) Except as provided by subclause (5), an existing Fellow continues in office until the expiration of the term for which the member was appointed or elected (unless the existing Fellow’s office becomes vacant earlier for a reason other than the expiration of the member’s term of office).
- (4) For the purpose of subclause (3), an existing Fellow is taken to be appointed or elected (as the case may be) to the corresponding category of membership as set out in the amended provisions.
- (5) The term of office of an existing Fellow appointed by the Minister under section 9 (2), as in force immediately before the commencement of the

amended provisions, is taken to expire on the day on which the governing body resolution takes effect.

- (6) For the purposes only of enabling the Senate to be duly constituted on or after the governing body resolution takes effect, an election held before the governing body resolution takes effect may be conducted as if the amended provisions were in force.



## **Schedule 2 Amendment of University of Sydney By-law 1999**

**[1] Clause 15 Definitions**

Omit “section 9 (1) (d)–(h)” from the definition of *election*.

Insert instead “section 8D (1) or 8E (2) (a)”.

**[2] Clause 19 Academic staff Fellow**

Omit “For the purposes of section 9 (1) (d) of the Act, a person is eligible for election as an academic staff Fellow”.

Insert instead “A person is qualified to be elected as an elected (academic staff) member of the Senate”.

**[3] Clause 20 Non-academic Fellow**

Omit “For the purposes of section 9 (1) (e) of the Act, a person is eligible for election as a non-academic staff Fellow”.

Insert instead “A person is qualified to be elected as an elected (non-academic staff) member of the Senate”.

**[4] Clause 21 Undergraduate student Fellow**

Omit “For the purposes of section 9 (1) (f) of the Act, a person is eligible for election as an undergraduate student Fellow”.

Insert instead “A person is qualified to be elected as an elected (student) member of the Senate, as an undergraduate student,”.

**[5] Clause 22 Postgraduate student Fellow**

Omit “For the purposes of section 9 (1) (g) of the Act, a person is eligible for election as a postgraduate student Fellow”.

Insert instead “A person is qualified to be elected as an elected (student) member of the Senate, as a postgraduate student,”.

**[6] Clause 23 Graduate Fellow**

Omit the clause.

**[7] Clause 24 Terms of office**

Omit the clause. Insert instead:

**24 Terms of office**

For the purposes of section 9 (1) (c) of the Act, the term of office of an elected member is 2 years.

**[8] Clause 27 Notice of Ballot**

Omit clause 27 (1). Insert instead:

- (1) A notice of ballot for election of a Fellow must be published by displaying a copy of the notice of ballot on all official University notice boards.

**[9] Clause 43 Academic or non-academic staff Fellows**

Omit “elected pursuant to section 9 (1) (d) or (e)” wherever occurring.

Insert instead “referred to in section 8D (1) (a) or (b)”.

**[10] Clause 44 Undergraduate or postgraduate student Fellows**

Omit “elected pursuant to section 9 (1) (f) or (g)” wherever occurring.  
Insert instead “referred to in section 8D (1) (c)”.

**[11] Clause 45 Graduate Fellows**

Omit the clause.

**[12] Clause 46A Nominations Committee**

Omit “within the meaning of section 9 (9)” from clause 46A (1) (e).  
Insert instead “within the meaning of Division 1 of Part 3”.

**[13] Clause 46B**

Omit the clause. Insert instead:

**46B Nominations procedure relating to appointed Fellows**

- (1) If the Senate is required to appoint a Fellow under section 8F, the Senate is to request the Nominations Committee to identify persons who may be suitable for appointment.
- (2) The Nominations Committee is:
  - (a) to recommend persons who may be suitable for appointment by the Senate, and
  - (b) to recommend the length of appointment for each such person, and
  - (c) to forward those recommendations to the Senate.
- (4) In determining the persons to be recommended under subclause (3) (a), the Nominations Committee is to have regard to:
  - (a) the skills and experience of the continuing Fellows, and
  - (b) the matters referred to in section 8C of the Act.
- (5) The Senate:
  - (a) is to consider the recommendations forwarded by the Nominations Committee, and
  - (b) is to determine which of the recommended persons are to be appointed and may select one or more other persons for appointment in place of one or more of the recommended persons, and
  - (c) is to determine the length of appointment of each such person.
- (6) The Senate is, when selecting a person for appointment other than a person recommended by the Nominations Committee, to have regard to the matters referred to in subclause (4) (a) and (b).

**[14] Clause 46BA Procedure for suggesting Fellows to Minister for appointment**

Omit “propose”, “proposal” and “proposing” wherever occurring in clause 46BA.  
Insert instead “suggest”, “suggestion” and “suggesting” respectively.

**[15] Clause 46BA (1)**

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

**[16] Clause 46BA (3) (b) and (5) (b)**

Omit “section 9 (3) and (4)” wherever occurring. Insert instead “section 8C”.

**[17] Clause 46C Casual vacancy in office of appointed Fellow**

Omit “section 9 (1) (b)” from clause 46C (1). Insert instead “section 8G”.

**[18] Clause 46C (2)**

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