



New South Wales

Universities Governing Bodies (University of New England) 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 13th day of July 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 Council of the University of New England 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 New England 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 the *Universities Governing Bodies Act 2011*, including section 4.

Universities Governing Bodies (University of New England) Order 2016

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1 Name of Order

This Order is the *Universities Governing Bodies (University of New England) 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

Notice is given that on 27 November 2015 the Council of the University of New England passed a governing body resolution in the following terms:

- (a) to displace the replaceable provisions of the *University of New England 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 13 members in the following categories of members:

Official members	3
Ministerially appointed members	2
Council appointed members, all of whom must be external persons	5
Elected members (academic staff)	1
Elected member (non-academic staff)	1
Elected member (student)	1

At least 2 of the 5 Council appointed members are to be graduates of the University.

At least 7 of the 13 Council members are to be external persons.

4 Amendments to University of New England legislation

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

Schedule 1 **Amendment of University of New England Act 1993 No 68**

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

Omit sections 8 and 9. 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).

Council appointed member—see section 8F.

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.

8A 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.

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,
 - (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 this subsection.
- (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,
 - (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 1 must be a member of the academic staff of the University elected by members of the academic staff, and
 - (b) at least 1 must be a member of the non-academic staff of the University elected by members of the non-academic staff, and
 - (c) at least 1 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 1 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.

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,
 - (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), (d) (ii), (e) (ii), (f) (ii), (g) (ii) and (h) (ii) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (k) and clause 1 (1) (c) and (d) of Schedule 1 and clause 3 of that Schedule” from section 29 (1).

Insert instead “8D (3) (a), 8E (4), 8F (2), 9 (1) (c) and (d), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (k) and clause 3 of Schedule 1”.

[3] Section 29 (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 members and procedure of the Council

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

[5] Schedule 1, clause 1

Omit the clause.

[6] Schedule 1, clause 2 (j)

Omit “under section 9 (1) (h)”. Insert instead “pursuant to section 8E (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 46:

Part 10 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 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 (University of New England) Order 2016* commenced.

governing body resolution means the governing body resolution made by the Council on 27 November 2015.

- (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).

Schedule 2 Amendment of University of New England By-law 2005

- [1] **Clause 6 External members**
Omit “9 (1) (c)” from clause 6 (1). Insert instead “8F (1)”.
- [2] **Clause 6 (2)**
Omit “9 (1) (h)”. Insert instead “8E (2) (b)”.
- [3] **Clause 7 Terms of office**
Omit “9 (1) (d)–(g)” from clause 7 (2). Insert instead “8D (1) (a)–(c)”.
- [4] **Clause 7 (3)**
Omit “9 (1) (h)”. Insert instead “8E (2) (a)”.
- [5] **Clause 7, Note**
Omit the note.
- [6] **Clause 8 (1) and (2) and Schedule 1, clause 1**
Omit “9 (1) (d), (e), (f), (g) or (h)” wherever occurring.
Insert instead “8D (1) (a), (b) or (c) or 8E (2) (a)”.
- [7] **Clause 11 (1), 12 (1) and Schedule 1, clause 5 (2) (a)**
Omit “9 (1) (d)” wherever occurring. Insert instead “8D (1) (a)”.
- [8] **Clause 11 (2), 12 (2) and Schedule 1, clause 5 (2) (b)**
Omit “9 (1) (e)” wherever occurring. Insert instead “8D (1) (b)”.
- [9] **Clause 11 (3) and Schedule 1, clause 5 (2) (c)**
Insert “or on the Roll of Postgraduate Students” after “Undergraduate Students” wherever occurring.
- [10] **Clause 11 (3), 12 (3) and Schedule 1, clause 5 (2) (c)**
Omit “9 (1) (f)” wherever occurring. Insert instead “8D (1) (c)”.
- [11] **Clause 11 (4) and (5)**
Omit the subclauses.
- [12] **Clause 12 Qualifications to vote**
Insert “or a postgraduate student” after “undergraduate student” in clause 12 (3).
- [13] **Clause 12 (3)**
Insert “or on the Roll of Postgraduate Students, respectively,” after “Undergraduate Students”.
- [14] **Clause 12 (4) and (5)**
Omit the subclauses.
- [15] **Clause 14 Nomination procedures relating to appointed members**
Omit “9 (1) (b) or (c)” from clause 14 (2). Insert instead “8F or 8G”.

[16] Clause 14 (4) (a)

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

[17] Clause 14 (4) (b)

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

[18] Schedule 1 Procedures for the conduct of elections for members of the Council

Omit “Act, or” from clause 5 (2) (c). Insert instead “Act.”.

[19] Schedule 1, clause 5 (2) (d) and (e)

Omit the paragraphs.

[20] Schedule 1, clause 7 (2)

Omit “section 9”. Insert instead “section 8D or 8E”.