

Southern Cross University By-law 2005

[2005-692]



New South Wales

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **See also**
[Universities Governing Bodies Bill 2011](#)

Authorisation

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Southern Cross University By-law 2005



New South Wales

Part 1 Preliminary

1 Name of By-law

This By-law is the *Southern Cross University By-law 2005*.

2 Application

This By-law applies to and in respect of the Southern Cross University, as established by the Act.

3 Definitions

(1) In this By-law and in any rule:

Board means the Academic Board referred to in section 15 of the Act.

Chancellor means the Chancellor of the University referred to in section 11 of the Act.

Deputy Chancellor means the Deputy Chancellor of the University referred to in section 12 of the Act.

rule means a rule made under section 30 (1) of the Act.

Secretary to Council means the Secretary to the Council of the University.

student means a person enrolled as a candidate in a course leading to an accredited award of the University or enrolled in units which do not lead to an accredited award of the University.

the Act means the *Southern Cross University Act 1993*.

Vice-Chancellor means the Vice-Chancellor of the University referred to in section 13 of the Act.

(2) For the purposes of this By-law, a person is a member of the fractional-time academic or non-academic staff if the person is employed, otherwise than on a casual or temporary basis, to perform a proportion of the duties that a full-time person

employed in the same classification would normally be required to perform in a 12 month period.

- (3) In the absence of a person who has been appointed to an office in the University by virtue of some other office held by him or her, whether in the University or elsewhere, any person acting in that other office holds that appointment ex officio, unless the Council resolves otherwise.
- (4) In this By-law and in any rule:
 - (a) a reference to an officer of the University is a reference to the incumbent of that position from time to time (including any person acting in that capacity), and
 - (b) a reference to a chair of a board, committee or other body established within the University is a reference to the incumbent of that office from time to time, and includes any person acting or deputising in that office.
- (5) Notes included in this By-law do not form part of this By-law.

Part 2 The Council

Division 1 The Chancellor and the Deputy Chancellor

4 Persons presiding at ceremonial occasions

- (1) The Chancellor when present is to preside at ceremonial occasions.
- (2) In the absence of the Chancellor, the Deputy Chancellor when present is to preside at ceremonial occasions.
- (3) In the absence of the Chancellor and the Deputy Chancellor, the Vice-Chancellor is to preside at ceremonial occasions.
- (4) In the absence of the Chancellor, the Deputy Chancellor and the Vice-Chancellor, a member of the Council (being a member who is not a member of the staff of the University or a student) appointed by the Council is to preside at ceremonial occasions.

5 Term of office of Chancellor

For the purposes of section 11 (2) of the Act, the prescribed period for which the Chancellor holds office is 4 years commencing on the date of the first Council meeting following election.

Note—

Section 12 (2) of the Act provides that the term of office of the Deputy Chancellor is 2 years from the date of his or her election.

6 Eligibility for re-election as Chancellor or Deputy Chancellor

Subject to the Act and this By-law, a person appointed as Chancellor or Deputy Chancellor is eligible for re-election when his or her term expires.

Note—

The Chancellor and Deputy Chancellor are to be elected according to procedures determined by the Council.

7 Conditions for holding office as Chancellor and Deputy Chancellor

- (1) It is a condition on which the Chancellor and the Deputy Chancellor each hold office that he or she retains the confidence of the Council.
- (2) The Chancellor or the Deputy Chancellor (as the case may be) ceases to hold office as such if the Council resolves, by resolutions passed:
 - (a) by a majority of at least two thirds of Council members present and entitled to vote, and
 - (b) at 2 consecutive ordinary meetings of Council,that he or she does not have the confidence of Council.
- (3) This clause applies to the Chancellor and Deputy Chancellor holding office on the date this clause comes into effect and all subsequent holders of those offices.

Note—

Sections 11 (2) and 12 (2) of the Act provide that the Chancellor and the Deputy Chancellor respectively hold office on such conditions as may be prescribed by the by-laws.

Division 2 Elected Council members and election procedures

8 Definitions

In this Division:

absolute majority of votes means a greater number than one-half of the whole number of formal ballot papers counted.

ballot paper means a document prepared by the Returning Officer in accordance with clause 23 which may be in electronic or hard copy form.

continuing candidate means a candidate not already excluded from the count.

determine by lot means to determine in accordance with the following directions:

- (a) the names of the candidates concerned must be written on separate and similar slips of paper,
- (b) the slips must be folded so as to prevent identification and mixed and drawn at

random,

(c) the candidate whose name is first drawn must be excluded.

electronic ballot means a ballot conducted under clause 20 (2) (c).

exhausted ballot paper means a ballot paper containing votes that can no longer be allocated according to the procedure set out in this Division and that is to be set aside as having been finally dealt with, subject to clause 34 (9).

first preference vote means a vote on a ballot paper marked "1".

Roll means a roll established by the Returning Officer referred to in clause 11, that may be in electronic or hard copy form.

secondary vote means a vote on a ballot paper which is marked "2" and so on up to the number of positions to be filled.

tally sheet means a tally sheet prepared by the Returning Officer in accordance with clause 33, that may be in electronic or hard copy form.

9 Terms of office

- (1) For the purposes of clause 1 (1) (c) of Schedule 1 to the Act, the prescribed period for which a Council member elected under section 10 (1) (d), (e) or (f) of the Act 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 under section 10 (1) (d), (e) or (f) of the Act is eligible for re-election when his or her term expires.

10 Returning Officer

- (1) An election of any elected member of the Council is to be conducted by the Secretary to Council who is to be the Returning Officer for the election.
- (2) The Returning Officer may appoint a Deputy Returning Officer (with such powers as the Returning Officer may determine) and other persons to assist the Returning Officer in the conduct of all or any part of an election referred to in this Division.
- (3) The Returning Officer's decision is, subject to the Act and this By-law, final on all matters affecting the eligibility of candidates, the conduct and results of an election and such other matters as may from time to time affect the conduct of elections.

11 Rolls

- (1) The Returning Officer is to keep the following:
 - (a) for the purposes of section 10 (1) (d) of the Act—a Roll of Academic Staff

containing the names and addresses of those persons who are classified as full-time or fractional-time members of the academic staff of the University,

- (b) for the purposes of section 10 (1) (e) of the Act—a Roll of Non-Academic Staff containing the names and addresses of those persons who are classified as full-time or fractional-time members of the non-academic staff of the University,
- (c) for the purposes of section 10 (1) (f) of the Act—a Roll of Students containing the names and addresses of those students enrolled in courses that are listed in the register of courses of the University and that have a minimum duration of 1 year full-time or equivalent.

(2) The Returning Officer is entitled to alter a Roll at any time by:

- (a) correcting any mistake or omission in the details entered on that Roll, or
- (b) changing, on the written application of any eligible person, the name or address of that person entered on that Roll, or
- (c) removing the name of any deceased person, or
- (d) removing a superfluous entry where a person's name appears more than once on that Roll, or
- (e) reinstating the name of an eligible person removed from the Roll where the Returning Officer is satisfied that that person is entitled to be entered on the relevant Roll.

(3) Despite subclause (2), a Roll is not invalid only because any one or more of the following occurs in connection with that Roll:

- (a) the Roll contains any mistake or omission in the details of any eligible person entered on the Roll,
- (b) the Roll contains the name of any deceased person,
- (c) the Roll contains more than one entry for the same eligible person,
- (d) the Roll does not contain the name of a person entitled to be entered on that Roll.

12 Provisional voting

(1) This clause applies to a person who claims he or she is entitled to vote in an election even though:

- (a) that person's name cannot be found on the Roll for the election in which that person claims he or she is entitled to vote, or
- (b) that person's name is on the Roll for the relevant election, but his or her address

is incorrect or does not appear on that Roll, or

(c) a mark on the Roll used in that election indicates incorrectly that the person has already voted in that election.

(2) A person to whom this clause applies may cast a provisional vote only if:

(a) that person makes a request to the Returning Officer to do so no less than 7 days before the ballot is due to be conducted, and

(b) the person complies with the provisions of clauses 24–27.

13 Qualification for election as an academic staff member

For the purposes of section 10 (1) (d) (ii) of the Act, in respect of a person seeking election as an academic staff member, the prescribed qualification is that the person's name is entered on the Roll of Academic Staff at the time specified in the notice referred to in clause 16 for the close of nominations for the election.

14 Qualification for election as a non-academic staff member

For the purposes of section 10 (1) (e) (ii) of the Act, in respect of a person seeking election as a non-academic staff member, the prescribed qualification is that the person's name is entered on the Roll of Non-Academic Staff at the time specified in the notice referred to in clause 16 for the close of nominations for the election.

15 Qualification for election as a student member

For the purposes of section 10 (1) (f) (ii) of the Act, in respect of a person seeking election as a student member, the prescribed qualifications are that the person's name:

(a) is entered on the Roll of Students, and

(b) is not entered on the Roll of Academic Staff or the Roll of Non-Academic Staff,

at the time specified in the notice referred to in clause 16 for the close of nominations for the election.

16 Notice of election and call for nominations

(1) When an election of a member or members of the Council becomes necessary the Returning Officer must publish on the Internet by means of the Website of the University, and by any other means that the Returning Officer considers appropriate, a notice referred to in this clause and:

(a) in the case of an election of a staff member, or members, of the Council—must send or deliver a copy of the notice to each person whose name is on the relevant Roll of staff of the University, and

(b) in the case of an election of a student member of the Council—must publish or

cause to be published such copies of the notice in such manner as the Returning Officer considers necessary to inform the persons whose names are entered on the Roll of Students of its contents.

- (2) The notice for the purposes of this clause must:
- (a) state that an election to a particular office is necessary, and
 - (b) invite nominations of persons for election, and
 - (c) specify the form in which nominations must be made, and
 - (d) specify a date and time for the close of nominations, being the date and time by which nomination papers must reach the Returning Officer, and
 - (e) specify how ballot papers may be obtained or accessed, and
 - (f) specify in what form or forms the ballot is to be conducted pursuant to clause 20 (2), and
 - (g) fix a date and time for the close of the ballot, being the date and time by which ballot papers must reach the Returning Officer, and
 - (h) contain such other information in relation to the election as the Returning Officer thinks fit (which may include, for example, details of the number of vacancies to be filled and of the terms of office of the members of the Council to be elected).
- (3) An election is not invalid only because a person who is eligible to have his or her name entered on a Roll did not see a notice or copy of a notice, or did not receive a copy of a notice, referred to in this clause.

17 Schedule of dates for Council elections

In the conduct of an election, the Returning Officer must allow:

- (a) between publication of the notice referred to in clause 16 and the date and time specified for the close of nominations—not less than 14 days and not more than 28 days, and
- (b) between the date and time specified for the close of the nominations and issue of ballot papers under clause 21 (1)—not more than 28 days, and
- (c) between the issue of ballot papers under clause 21 (1) and the date and time specified for the close of the ballot—not less than 14 days and not more than 28 days.

18 Making of nominations

- (1) A nomination of a candidate for election as a member of the Council must be made by sending or delivering a nomination paper to the Returning Officer.

- (2) A nomination paper must be signed by 2 persons entitled to vote at the election for which the candidate is nominated and must be endorsed with or accompanied by the written consent of the person nominated.
- (3) There must be a separate nomination paper for each candidate.
- (4) A candidate may provide with the nomination paper a statement of not more than 150 words containing information relating to the candidate that he or she wishes to supply. That information may include, for example, the following particulars in relation to the candidate:
 - (a) full name,
 - (b) faculty, school or department,
 - (c) academic qualifications and experience,
 - (d) positions or offices held at any time with public bodies, clubs and institutions (including University clubs and societies) with dates of tenure.
- (5) The Returning Officer must not accept statements containing more than 150 words. The Returning Officer (or a person appointed by the Returning Officer) is to edit all statements supplied to ensure that they contain no defamatory or offensive material. The edited statements are to be printed and distributed with the ballot papers.
- (6) The Returning Officer must reject a nomination paper if satisfied that:
 - (a) the nomination is not duly made, or
 - (b) the person nominated is not eligible to be elected.
- (7) The Returning Officer must, within 4 days after receipt of a nomination paper, send or deliver a notice to each person who has signed or endorsed the nomination paper, notifying the person of the acceptance or rejection of the nomination.

19 Dealing with nominations

- (1) If, at the close of nominations, the number of candidates is the same or less than the number of vacancies to be filled, the Returning Officer must declare the candidate or candidates to be elected.
- (2) If, at the close of nominations, the number of candidates is more than the number of vacancies to be filled, the Returning Officer must conduct a ballot to fill the vacancy or vacancies.
- (3) If, before the declaration of a poll for an election, a candidate dies or becomes no longer eligible for election, the election must proceed as if:
 - (a) the candidate was not nominated for election, and

- (b) the candidate's name was not on the ballot paper printed for that election, and
- (c) any vote for that person was not cast.

20 Form of ballot

- (1) A ballot for a Council election must be a secret ballot using the optional preferential system.
- (2) Subject to subclause (3), a ballot for a Council election may be conducted by any one or more of the following means:
 - (a) by requiring voters to attend and cast their votes at a polling booth designated by the Returning Officer in a notice given under clause 21 (1) (a),
 - (b) by postal ballot,
 - (c) by a ballot conducted by electronic means, including submitting votes via on-line access to a computer ballot.
- (3) If there is any malfunction in respect of an electronic ballot, that ballot must be conducted again using, in the discretion of the Returning Officer, either one or both of the alternative voting methods referred to in subclause (2) (a) and (b).

21 Conduct of ballot

- (1) The Returning Officer must, for each election of a Council member:
 - (a) publish, in such manner as the Returning Officer considers necessary, a notice specifying the dates and times of polling, the location of any polling booths and any other relevant information, and
 - (b) in the case of an electronic ballot—publish in such manner as the Returning Officer considers necessary, a notice with instructions on how to access and use the system, the period of time in which votes will be taken and any other relevant information, and
 - (c) if the person has applied for the issue of a ballot paper by post and the application has been received not later than 10 days before the close of the ballot for the election—forward a ballot paper to each person whose name is on the relevant Roll.
- (2) In the case of a ballot that is not an electronic ballot, a person whose ballot paper becomes lost or destroyed may apply in writing to the Returning Officer for a duplicate ballot paper and, if satisfied that the ballot paper was lost or destroyed, the Returning Officer must supply a duplicate ballot paper to that person.
- (3) An election is not invalid only because a person whose name is on the relevant Roll of staff or students of the University did not receive or otherwise obtain a ballot paper.

- (4) In this clause, a reference to a person's name being on a relevant Roll of staff or students of the University is a reference to the person's name being on the Roll concerned (as referred to in clause 11) at the close of nominations for the relevant election.

22 Notice to accompany ballot paper

In the case of an election by postal ballot, there must also be issued with each ballot paper:

- (a) a notice setting out how the ballot paper is to be completed and specifying the date and time by which ballot papers for that election must reach the Returning Officer, and
- (b) 2 envelopes, one marked "Ballot Paper" and the other addressed to the Returning Officer on the outside of which must be printed a form of declaration of identity and of entitlement to vote to be signed by the voter.

23 Contents of ballot paper

Each ballot paper must contain the names of the candidates in the order drawn at random by the Returning Officer, or by a person appointed by the Returning Officer, for the purposes of the election and must be initialled (or, in the case of an electronic ballot, otherwise validated) by the Returning Officer or by a person appointed by the Returning Officer.

24 Method of voting

- (1) Each voter may only vote once in an election.
- (2) Each voter must mark a vote on the ballot paper by placing the figure "1" in the square opposite the name of the candidate to whom the voter desires to give a first preference vote, and may place consecutive figures (commencing with the figure "2") in the squares opposite the names of any of the remaining candidates, so as to indicate by numerical sequence the order of the voter's preference for them.

25 Procedure for postal ballots

- (1) In the case of a postal ballot, each voter must:
- (a) place the completed ballot paper in the envelope marked "Ballot Paper" and seal that envelope, and
- (b) complete the form of declaration of identity and entitlement to vote on the inside of the envelope addressed to the Returning Officer, and
- (c) enclose and seal the envelope marked "Ballot Paper" in the envelope addressed to the Returning Officer, and

(d) send or deliver to the Returning Officer the envelope so addressed so as to ensure the Returning Officer will receive it before the close of the ballot.

(2) All envelopes received by the Returning Officer under this clause must be deposited in the relevant ballot box.

26 Procedure for voting at polling booths

(1) The procedures set out in subclauses (2)–(5) apply where voters can cast their votes at a polling booth.

(2) Any person who is recognised by a person appointed by the Returning Officer as being entered on the relevant Roll is entitled to attend a polling booth and to be provided with a ballot paper.

(3) Voters must deposit their vote in the relevant ballot box provided for the purpose at the polling booth.

(4) Where the Returning Officer determines that an election is to be conducted by both means specified in clause 20 (2) (a) and (b), a person who has been forwarded a ballot paper under clause 21 (1) (c) and who wishes to vote can do so by:

(a) attending a polling booth and depositing the vote in the relevant ballot box provided for the purpose at the polling booth, or

(b) doing all of the following things:

(i) placing the completed ballot paper in the envelope marked “Ballot Paper” and sealing that envelope,

(ii) completing the form of declaration of identity and entitlement to vote on the inside of the envelope addressed to the Returning Officer,

(iii) enclosing and sealing the envelope marked “Ballot Paper” in the envelope addressed to the Returning Officer,

(iv) sending or delivering to the Returning Officer the envelope so addressed so as to ensure the Returning Officer receives it before the close of the ballot.

(5) All envelopes received by the Returning Officer under subclause (4) must be deposited in the relevant ballot box.

27 Procedure for electronic ballots

In the case of an electronic ballot, voters must follow the instructions and prompts to complete and submit their vote, including, without limitation, entering any details specified in the instructions to enable the Returning Officer to verify the eligibility or identity of the voter, such as a personal identification number or an email address.

28 Envelopes and ballot papers not to be opened, accessed or retrieved

- (1) All envelopes containing postal ballots received by the Returning Officer under clause 25 or 26 must remain unopened until the close of the ballot.
- (2) A ballot box referred to in clause 25 or 26 must remain unopened until the close of the ballot.
- (3) Any electronic database or retrieval system containing votes referred to in clause 27 must not be accessed or retrieved until the close of the ballot.

29 Procedure on close of ballot

As soon as practicable after the close of the ballot, the Returning Officer or a person appointed by the Returning Officer must:

- (a) open any ballot boxes, and
- (b) access or retrieve any ballot papers submitted electronically under clause 27, and
- (c) in the case of postal ballots:
 - (i) open the envelopes addressed to the Returning Officer and received before the close of the ballot, and
 - (ii) if the declaration of identity is duly signed by a qualified voter, place the unopened envelope containing the ballot paper with other similar envelopes, and
 - (iii) open the envelopes referred to in subparagraph (ii) and take out the ballot papers, and
- (d) count the votes, and ascertain the result of the ballot, in the manner set out in clauses 30-35.

30 Informal ballot papers

- (1) A ballot paper is informal if it has on it any mark or writing that, in the opinion of the Returning Officer, will enable any person to identify the voter.
- (2) A ballot paper is informal if not initialled or validated in accordance with clause 23.
- (3) A ballot paper is informal if the voter has not indicated a clear preference for at least one candidate.
- (4) Despite subclause (3), a ballot paper is not informal only because any figures placed on the ballot paper are not placed in, or entirely in, the squares opposite the candidates' names, if the figures are placed on the ballot paper in such positions as, in the opinion of the Returning Officer, clearly indicate the order of the voter's preference for the candidates.

31 Nomination of scrutineers

- (1) Each candidate is entitled to nominate one scrutineer to be present at the count.
- (2) A person is not to be a scrutineer in an election in which he or she is a candidate.
- (3) A scrutineer may inspect any ballot paper provided that, in the opinion of the Returning Officer, that scrutiny does not delay the counting of votes unreasonably.

32 Secrecy of ballot to be maintained

- (1) The result of the count must remain confidential until the declaration of the poll by the Returning Officer.
- (2) The Returning Officer, any person appointed by the Returning Officer or any scrutineer must not in any way disclose or aid in disclosing the manner in which any voter has voted.

33 Tally sheet

- (1) The Returning Officer must keep a tally sheet for each ballot containing the following information:
 - (a) total number of ballot papers,
 - (b) total number of informal ballot papers,
 - (c) a list of candidates,
 - (d) first preference votes allocated to each candidate,
 - (e) secondary votes allocated to each candidate,
 - (f) exhausted ballot papers,
 - (g) progressive total votes for each candidate.
- (2) At each stage of counting, the total number of votes divided by the number of candidates to be elected must correspond with the total number of formal ballot papers (including exhausted ballot papers).

34 Determination of result of ballot

- (1) If a ballot has been held for the purpose of an election the result of the ballot must be determined as provided by this clause.
- (2) The Returning Officer must count the total number of ballot papers and exclude any informal papers.
- (3) The Returning Officer must count the number of first preference votes given for each

candidate.

- (4) The candidate who has received the largest number of first preference votes must, if that number constitutes an absolute majority of votes, be declared by the Returning Officer to be elected.
- (5) If no candidate has received an absolute majority of first preference votes, the candidate who has received the fewest first preference votes must be excluded and each of the ballot papers counted to that candidate must be counted to the continuing candidate next in order of the voter's preference.
- (6) If on any count 2 or more candidates have an equal number of votes and one of them has to be excluded, the candidate to be excluded must be determined as follows:
 - (a) if the count is the first made in connection with the ballot, the Returning Officer must determine by lot which of those candidates is to be excluded,
 - (b) if the count is the second or subsequent count made in connection with the ballot:
 - (i) that candidate must be excluded who had the least number of votes at the last count at which one of those candidates received fewer votes than each of the others, or
 - (ii) the Returning Officer must determine by lot which of those candidates is to be excluded, if at all preceding counts no one of those candidates received fewer votes than each of the others.
- (7) The process of excluding the candidate who has the fewest votes and counting each of the ballot papers counted to that candidate to the continuing candidate next in order of the voter's preference must (subject to subclauses (8) and (9)) be continued:
 - (a) until one continuing candidate has an absolute majority of votes in which event that candidate must be declared by the Returning Officer to be elected, or
 - (b) until all candidates but one have been excluded in which event the remaining candidate must be declared elected.
- (8) If at any point during any particular count after the first preference votes have been counted, the candidate next in order of a voter's preference is not indicated or cannot be ascertained, that ballot paper must, from that point onwards, be excluded from that particular count as an exhausted ballot paper and the total of the ballot papers counted must be amended accordingly. The ballot paper must, however, be reinstated in any later counts carried out in accordance with subclause (10).
- (9) If any further positions remain to be filled, all excluded candidates must be reinstated with their first preference votes credited and each of the ballot papers counted to the elected candidate or candidates must be counted to the reinstated candidate next in order of the voter's preference as if it were a first preference vote.

(10) The procedures described in subclauses (4) to (9) apply until all vacancies are filled.

35 Election not invalid because of certain errors

- (1) An election is not invalid only because of any one or more of the following:
- (a) any one or more of the events described in clause 11 (3) occurs,
 - (b) an eligible person did not receive a ballot paper,
 - (c) an eligible person's vote has not been accepted at the election.
- (2) Despite subclause (1) and without limiting any of the Returning Officer's other powers, the Returning Officer may at any time declare an election invalid because, in his or her opinion, one or more of the events described in that subclause has materially affected, or is likely to materially affect, the outcome of that election.

Division 3 Appointed Council members

36 External persons appointed by the Council

- (1) The prescribed number of persons that the Council may appoint at any one time pursuant to section 10 (1) (c) of the Act is 6.
- (2) Any person who is to be appointed pursuant to section 10 (1) (c) 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).

- (3) Subject to the Act and this By-law, a person appointed as a Council member under section 10 (1) (c) of the Act is eligible for re-appointment when his or her term expires.

Note—

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

37 Council Nominations Committee

The Council is to establish a Council Nominations Committee consisting of the following persons:

- (a) the Chancellor,
- (b) the Deputy Chancellor,
- (c) the Vice-Chancellor,
- (d) 2 members of the Council who are external persons (within the meaning of section 10 (10) of the Act).

38 Nominations procedures relating to external persons appointed by the Council

- (1) At least 3 months before the term of office of a member appointed under section 10 (1) (c) of the Act expires, the Council is to propose the names of persons who may be suitable for nomination for appointment as such a member and forward the proposals to the Council Nominations Committee.
- (2) The Committee is to consider the proposals from the Council and determine which persons are to be nominated for appointment by the Council and is to recommend the length of appointment for each such person.
- (3) The Committee is to forward its nominations to the Council.

39 Nominations procedures relating to external persons appointed by the Minister

- (1) At least 3 months before the term of office of a member appointed under section 10 (1) (b) of the Act expires, the Council is to propose the names of persons who may be suitable for nomination for appointment as such a member and forward the proposals to the Council Nominations Committee.
- (2) The Committee is to consider the proposals from the Council and determine which persons are to be nominated for consideration for appointment by the Minister and is to recommend the length of appointment for each such person.
- (3) The Committee is to forward its nominations to the Chancellor for presentation to the Minister.

40 Graduate members

- (1) The prescribed number of persons that the Council may appoint at any one time pursuant to section 10 (1) (g) of the Act is 2.
- (2) Subject to the Act and this By-law, a person appointed as a Council member under section 10 (1) (g) of the Act is eligible for re-appointment when his or her term expires.

Note—

Clause 1 (1) (d) of Schedule 1 to the Act provides that a Council member appointed under section 10 (1) (g) of the Act holds office for such term (not exceeding 4 years) as may be specified in that Council member's instrument of appointment.

41 Roll of Graduates

For the purposes of section 10 (1) (g) of the Act, the Secretary to Council is to keep a Roll of Graduates containing the names and addresses of graduates of the University.

42 Qualification for appointment as graduate member

For the purposes of section 10 (1) (g) of the Act, in respect of a person seeking election as a graduate member of the Council, the prescribed qualification is that the person's name is entered on the Roll of Graduates at the date by which proposals for appointment must reach the Secretary to Council.

43 Proposing graduate Council members for nomination

- (1) As soon as practicable after 1 March in a year in which the term of office of a graduate member expires, the Secretary to Council is to invite graduates of the University to propose names of graduates of the University for appointment as a member of the Council under section 10 (1) (g) of the Act.
- (2) The Secretary to Council is to make such an invitation by placing a notice to that effect:
 - (a) in a newspaper circulating throughout Australia, and
 - (b) in at least 3 regional newspapers, each newspaper being published in at least one of the regions where a major campus is located, and
 - (c) on the Internet by means of the website of the University, and
 - (d) by any other means that the Secretary to Council considers appropriate.
- (3) The notice must:
 - (a) state that the proposal must be made by 2 graduates of the University, and
 - (b) specify a date and time by which the proposal must reach the Secretary to Council.
- (4) The Secretary to Council must forward any proposals received in accordance with this clause to the Graduate Appointments Committee established by clause 44, and advise the Graduate Appointments Committee if:
 - (a) any proposal does not comply with the requirements set out in the notice given under subclause (3), or
 - (b) any person proposed is not qualified to be appointed.

44 Graduate Appointments Committee

- (1) There is established by this By-law a Graduate Appointments Committee.

- (2) The Committee is to consist of the following persons:
 - (a) the Chancellor,
 - (b) the Deputy Chancellor,
 - (c) the Vice-Chancellor,
 - (d) 2 members of the Council appointed by the Council (other than those who are eligible to be appointed as graduate members of the Council).
- (3) The Committee must do the following:
 - (a) consider the proposals forwarded by the Secretary to Council under clause 43 (4),
 - (b) recommend names, selected from persons whose names have been proposed, to be forwarded to the Council for appointment by the Council,
 - (c) recommend the length of appointment (not exceeding 4 years) for each such person,
 - (d) forward those recommendations to the Council.

45 Council to consider recommendations of Graduate Appointments Committee

The Council must do the following:

- (a) consider the recommendations forwarded by the Graduate Appointments Committee in accordance with clause 44 (3) (d),
- (b) determine which persons are to be appointed for the purposes of section 10 (1) (g) of the Act,
- (c) determine the length of appointment (not exceeding 4 years) for each person appointed, which is to commence from the date of appointment.

Division 4 Casual vacancies

46 Elected Council members

- (1) If a casual vacancy in the office of a member of the Council elected pursuant to section 10 (1) of the Act occurs:
 - (a) if less than half of that member's term of office remains—the Council is, as soon as practicable after the vacancy occurs, to appoint a person qualified to hold that office under section 10 (1) of the Act for the remainder of the term of office, or
 - (b) if the remainder of that member's term of office is or exceeds half of the term of office—the Returning Officer is to conduct an election to fill the vacancy for the balance of the term of office.

- (2) An election referred to in subclause (1) (b) is to be conducted in accordance with the election procedures prescribed in Division 2 of this By-law as soon as practicable after the vacancy occurs (or, in a case to which clause 47 applies, from some earlier time in accordance with that clause).

47 Election in anticipation of resignation

- (1) Any member of the Council who intends to resign in circumstances that would create a vacancy to which clause 46 (1) (b) would apply if the resignation took effect as intended is under a duty to notify the Returning Officer as soon as practicable of:
 - (a) his or her intention to resign, and
 - (b) the date from which the resignation is intended to take effect.
- (2) On receipt of any such notification the Returning Officer, even though the resignation has not taken effect, may in accordance with the rules for the conduct of elections proceed to conduct an election to fill the anticipated vacancy.
- (3) The election of a new member of the Council in accordance with subclause (2) does not take effect, and the result of any such election is not to be made public, until after the incumbent member's resignation takes effect.

48 Appointed Council members

- (1) In the event that a casual vacancy occurs in the office of an external person appointed by the Council, the Council is to appoint an external person whose name was contained in the previous proposals forwarded to the Council under clause 38 (3) but who was not appointed to the Council.
- (2) In the event that a casual vacancy occurs in the office of an external person appointed by the Minister, the Chancellor is to forward to the Minister for consideration for appointment the name or names of any external persons who may be suitable for appointment (but only with the consent of the person concerned).
- (3) In the event that a casual vacancy occurs in the office of a graduate member of the Council, the Council is to appoint a graduate whose name was contained in the previous proposals forwarded to the Council under clause 44 (3) (d) but who was not appointed to the Council.

Part 3 The Academic Board

49 Rules with respect to Board

The Council may make rules:

- (a) for or with respect to the constitution, governance, functions and determination of the membership of the Board, and

- (b) regulating, or providing for the regulation of, the functions of the Board.

50 Rules made by Board

The Board may make rules for or with respect to:

- (a) the manner and time of convening, holding and adjourning its meetings, and
- (b) the conduct of business and the manner of voting at its meetings, and
- (c) the establishment of committees of the Board and the quorum, powers and duties of such committees.

51 Council to obtain views of Board on certain matters

- (1) If the Council wishes to amend a recommendation from the Board relating to teaching, scholarship or research within the University, the Council must seek further advice from the Board before making a final decision.
- (2) This clause does not apply if, in the judgment of the presiding member of the Board and the Chancellor:
 - (a) the matter is one of urgency on which it is necessary for an immediate decision to be made by the Council, or
 - (b) the area of difference between the Council and the Board is not one of principle, or of major significance.

Part 4 Rules

52 Rules made by Council

The Council may make rules, not inconsistent with the Act or this By-law, for or with respect to any or all of the matters for or with respect to which By-laws may be made, except for those matters excluded under section 30 (1) of the Act.

53 Rules made by Vice-Chancellor

The Vice-Chancellor may make rules, not inconsistent with the Act or this By-law, for or with respect to the conduct and management of the academic, administrative, financial and other business of the University.

54 Promulgation of rules

- (1) A rule made by the Council or by the Vice-Chancellor must be promulgated by means of a notice displayed on the Internet by means of the website of the University and by any other means that the Secretary to Council considers appropriate.
- (2) The Secretary to Council must ensure that the rules are published in an official publication of the University.

(3) Failure to comply with subclause (2) does not invalidate any rule.

Note—

Section 30 (2) (c) of the Act provides that a rule takes effect on the day on which it is published or on such later day as may be specified in the rule.

55 Inconsistency between rules

In the event of an inconsistency between the rules made by the Council and the rules made by the Vice-Chancellor, the rules made by the Council prevail to the extent of such inconsistency.

56 Amendment or repeal of rules

- (1) A person or body with power to make a rule under this By-law also has power to amend or repeal that rule from time to time.
- (2) Any amendment or repeal of a rule must be promulgated in the manner prescribed in clause 54.

Part 5 Miscellaneous

57 Repeal

- (1) Any by-laws made under the Act, including the by-laws referred to in clause 23 (1) of Schedule 3 to the Act, and in force immediately before the commencement of this By-law are repealed.
- (2) Any act, matter or thing that, immediately before the repeal of those by-laws, had effect under those by-laws is taken to have effect under this By-law.

58 Savings and transitional provisions

- (1) Any person who, immediately before the commencement of this By-law, held office as Chancellor or Deputy Chancellor continues to hold office as such for the residue of the term for which that person was elected, subject to the Act and this By-law.
- (2) Any person who, immediately before the commencement of this By-law, held office as a Council member (whether elected or appointed):
 - (a) remains a Council member in the category for which he or she was (as the case may be) elected or appointed, and
 - (b) continues to hold office as such for the residue of the term for which that person was (as the case may be) elected or appointed, subject to the Act and this By-law.
- (3) Any rule made pursuant to the by-laws referred to in clause 57 (1) and in force immediately before the repeal of those By-laws remains in force, but only to the extent that it is not inconsistent with the Act or this By-law.

- (4) Any rule made pursuant to this By-law before its amendment by the *Southern Cross University Amendment By-law 2009* that would have been valid if the amendment had been in force at the time that the rule was made is taken to be valid from the date of the commencement of the amendment.