

# Southern Cross University By-law 2005

[2005-692]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Notes—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes. Text of the legislation is not affected.

This version has been updated.

### Authorisation

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New South Wales

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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.

**election rules** means rules made by the Council for or with respect to matters referred to in section 30 (1A) of the Act.

**Returning Officer** means the person appointed as Returning Officer in accordance with the election rules.

**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 (Repealed)**

#### **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 (Repealed)**

## **Division 2 Elected Council members and election procedures**

### **8 Definitions**

In this Division—

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

### **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.

### **10 (Repealed)**

### **11 Rolls**

- (1) The Returning Officer is to keep the following—
  - (a) for the purposes of section 9D (1) (a) 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 9D (1) (b) 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 9D (1) (c) 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 (Repealed)**

**13 Qualification for election as an elected (academic staff) member**

For the purposes of section 9D (3) (a) of the Act, in respect of a person seeking election as an elected (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 for the close of nominations for the election issued in accordance with the election rules.

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

For the purposes of section 9D (3) (a) of the Act, in respect of a person seeking election as an elected (non-academic staff) member, the prescribed qualification is that the person's name is entered on the Roll of Non-Academic Staff at the time specified in the notice for the close of nominations for the election issued in accordance with the election rules.

**15 Qualification for election as an elected (student) member**

For the purposes of section 9D (3) (a) of the Act, in respect of a person seeking election as an elected (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 for the close of nominations for the election issued in accordance with the election rules.

**16-35 (Repealed)**

**Division 3 Appointed Council members**

**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.

### **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.

### **38 Nominations procedures relating to Council appointed members (other than graduate members)**

- (1) At least 3 months before the term of office of a Council appointed member (other than a graduate member) 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 Ministerially appointed members**

- (1) At least 3 months before the term of office of a Ministerially appointed member 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 (Repealed)**

### **41 Roll of Graduates**

For the purposes of section 9E 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 9E (4) 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 external persons for nomination for appointment as graduate members**

- (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 9F of the Act, pursuant to section 9E 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 9E 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 an elected member of the Council 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 9F 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 (other than a graduate member) 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.