## South Australia



## STATUTES AMENDMENT (UNIVERSITY COUNCILS) ACT 1996

## No. 72 of 1996

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#### ANNO QUADRAGESIMO QUINTO

## **ELIZABETHAE II REGINAE**

A.D. 1996

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### No. 72 of 1996

An Act to amend The Flinders University of South Australia Act 1966, the University of Adelaide Act 1971 and the University of South Australia Act 1990.

[Assented to 22 August 1996]

The Parliament of South Australia enacts as follows:

# PART 1 PRELIMINARY

### Short title

1. This Act may be cited as the Statutes Amendment (University Councils) Act 1996.

### Commencement

- 2. (1) Subject to subsection (2), this Act will come into operation on a date to be fixed by proclamation.
- (2) A provision of this Act that has not come into operation by the first anniversary of the day of assent to this Act will come into operation on that anniversary.

### Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

## PART 2

## AMENDMENT OF THE FLINDERS UNIVERSITY OF SOUTH AUSTRALIA ACT 1966

## Amendment of s. 2—Interpretation

4. Section 2 of the principal Act is amended by inserting before the definition of "academic staff" the following definition:

## "the Academic Senate" means-

- (a) the body known as the Academic Senate of the University; or
- (b) if another body is prescribed by the regulations of the University for the purposes of this definition, that other body;

### Amendment of s. 5-Council

- 5. Section 5 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:
  - (2) The Council is the governing body of the University and has as its principal responsibilities—
    - (a) overseeing the management and development of the University; and
    - (b) devising or approving strategic plans and major policies for the University; and
    - (c) monitoring and reviewing the operation of the University.
    - (3) The Council will consist of the following members:
    - (a) the Chancellor and the Vice-Chancellor who will be members of the Council ex officio;
    - (b) the presiding member of the Academic Senate who will be a member of the Council ex officio or, if the Vice-Chancellor is the presiding member of the Academic Senate, a member of the Academic Senate who is a member of the academic staff of the University elected by the Academic Senate (but that person cannot be a student of the University);
    - (c) the General Secretary of the Students Association of the University who will be a member of the Council ex officio;
    - (d) ten persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and six other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
    - (e) if the Council so determines, one person co-opted and appointed by the Council;
    - (f) two members of the academic staff, elected by the academic staff;
    - (g) two members of the general staff, elected by the general staff;
    - (h) two students of the University (not being persons in the full time employment of the University), one of whom must be a postgraduate student and one of whom must be an undergraduate student, appointed or elected in a manner determined by the Vice-Chancellor after consultation with the General Secretary of the Students Association of the University.
  - (3a) Where a person is appointed to the Council, the appointing authority must recognise that the Council is, as far as practicable, to be constituted of equal numbers of men and women who—
    - (a) have a commitment to education and, in particular, to higher education; and

- (b) have an understanding of, and commitment to, the principles of equal opportunity and social justice and, in particular, to access and equity in education.
- (3b) Of the members of the Council appointed on the recommendation of the selection committee, at least one must have qualifications and experience in financial management.
- (3c) A member of the academic or general staff or student of the University is not eligible to be appointed to the Council by the Council.
- (3d) A selection committee established for the purpose of making an appointment under subsection (3)(d) cannot recommend one of their number for appointment.

### Substitution of ss. 6 to 15

6. Sections 6, 7, 8, 9, 9A, 10, 11, 12, 13, 14 and 15 of the principal Act are repealed and the following section is substituted:

### Term of office

- 6. (1) A member appointed to the Council by the Council will be appointed for a term of two or four years to be determined—
  - (a) in the case of a member appointed on the recommendation of a selection committee—by that selection committee; and
  - (b) in the case of a member co-opted and appointed by the Council—by the Council.
- (2) A person elected by the Academic Senate to the Council will be elected for a term of two years.
- (3) A member of the academic or general staff of the University elected to the Council will be elected for a term of two years.
- (4) A student of the University appointed or elected to the Council will be appointed or elected for a term of one year.
- (5) At the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.
- (6) The Council may remove an appointed or elected member of the Council from office for—
  - (a) mental or physical incapacity to carry out official duties satisfactorily; or
  - (b) failing, without reasonable excuse, to comply with the Council's requirements in relation to attendance at Council meetings; or
  - (c) conviction of an indictable offence; or
  - (d) serious misconduct.

- (7) The office of an appointed or elected member becomes vacant if the member—
- (a) dies; or
- (b) completes a term of office and is not reappointed or re-elected; or
- does not continue in the capacity in which he or she was appointed or elected to membership of the Council (unless the date of the next appointment or election to his or her office is within three months from the date on which the member ceased to continue in the capacity in which he or she was appointed or elected); or
- (d) resigns by notice in writing addressed to the Chancellor; or
- (e) is removed from the office by the Council under subsection (6).
- (8) If a member of the Council is appointed by the Council to the office of Chancellor or Vice-Chancellor, a casual vacancy occurs in the office held by that member.
- (9) On the office of an appointed or elected member of the Council becoming vacant under this section, a person must be appointed or elected, as the case may require, to the vacant office in accordance with this Act.
- (10) Subject to this Act, a member appointed or elected to fill a casual vacancy in the membership of the Council holds office for the balance of the term of his or her predecessor.
- (11) An act or decision of the Council is not invalid by reason only of a vacancy in its membership or on the ground of any defect in the appointment of a member.

## Amendment of s. 16-Appointment of Chancellor, Vice-Chancellor, etc.

- 7. Section 16 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:
  - (3) The Council may appoint a member of the Council or any other suitable person to the office of Chancellor for a term of four years on terms and conditions fixed by the Council.
  - (3a) An employee or student of the University is not eligible for appointment to the office of Chancellor.
  - (3b) A person who holds office as Chancellor is, on the expiration of a term of office, eligible for reappointment.

### Amendment of s. 18—Conduct of business in Council

- 8. Section 18 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:
  - (3) A quorum of the Council is constituted by 11 members of the Council and no business may be transacted at a meeting of the Council unless a quorum is present.

(4) The Chancellor or, in his or her absence a member of the Council elected by those present, will preside at meetings of the Council.

## Repeal of s. 19

9. Section 19 of the principal Act is repealed.

# PART 3 AMENDMENT OF UNIVERSITY OF ADELAIDE ACT 1971

## Amendment of s. 3-Interpretation

- 10. Section 3 of the principal Act is amended—
- (a) by striking out the definitions of "parliamentary member", "postgraduate member", "the ancillary staff", the convocation of electors" and "undergraduate member";
- (b) by inserting after the definition of "the Council" the following definition:

"the general staff" means the officers or employees of the University classified by the Council as members of the general staff;;

(c) by striking out from the definition of "undergraduate of the University" "elections of members" and substituting "the appointment or election of a member".

## Amendment of s. 7—Chancellor and Deputy Chancellors

- 11. Section 7 of the principal Act is amended—
- (a) by striking out from subsection (1) "elect" and substituting "appoint";
- (b) by striking out subsections (2), (3) and (4) and substituting the following subsections:
  - (2) The Chancellor will be appointed for a term of four years on terms and conditions fixed by the Council and is, on the expiration of a term of office, eligible for reappointment.
  - (3) An employee or student of the University is not eligible for appointment to the office of Chancellor.

### Amendment of s. 8-Vice-Chancellor

12. Section 8 of the principal Act is amended by striking out subsections (2) and (5).

### Substitution of s. 9

13. Section 9 of the principal Act is repealed and the following section is substituted:

## Council to be governing body of the University

- 9. The Council is the governing body of the University and has as its principal responsibilities—
  - (a) overseeing the management and development of the University; and

- (b) devising or approving strategic plans and major policies for the University; and
- (c) monitoring and reviewing the operation of the University.

### Substitution of ss. 11 to 13

14. Sections 11, 12 and 13 of the principal Act are repealed and the following sections are substituted:

### Conduct of business of the Council

- 11. (1) A quorum of the Council is constituted by 11 members of the Council and no business may be transacted at a meeting of the Council unless a quorum is present.
- (2) Each member present at a meeting of the Council is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.
- (3) A decision carried by a majority of the votes cast by the members present and voting at a meeting is a decision of the Council.
  - (4) A meeting of the Council will be presided over—
  - (a) by the Chancellor; or
  - (b) in the absence of the Chancellor, by the most senior of the Deputy Chancellors present at the meeting; or
  - (c) in the absence of the Chancellor and the Deputy Chancellors, by a member of the Council elected by those present at the meeting.

## **Constitution of Council**

- 12. (1) The Council will consist of the following members:
- (a) the Chancellor and the Vice-Chancellor who will be members of the Council ex officio;
- (b) seven persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and six other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
- (c) three persons elected by the Senate;
- (d) if the Council so determines, one person co-opted and appointed by the Council;
- (e) three members of the academic staff, elected by the academic staff;
- (f) two members of the general staff, elected by the general staff;

- (g) three students of the University, one of whom must be a postgraduate student and one of whom must be an undergraduate student, appointed or elected in a manner determined by the Council after consultation with the presiding member of the Students Association of the University.
- (2) Where a person is appointed to the Council, the appointing authority must recognise that the Council is, as far as practicable, to be constituted of equal numbers of men and women who—
  - (a) have a commitment to education and, in particular, to higher education; and
  - (b) have an understanding of, and commitment to, the principles of equal opportunity and social justice and, in particular, to access and equity in education.
- (3) Of the members of the Council appointed on the recommendation of the selection comittee, at least one must have qualifications and experience in financial management.
- (4) A member of the academic or general staff or student of the University is not eligible to be appointed to the Council by the Council.
- (5) A member of the academic or general staff or student of the University is not eligible to be elected to the Council by the Senate.
- (6) A selection committee established for the purpose of making an appointment under subsection (1)(b) cannot recommend one of their number for appointment.
- (7) An undergraduate student is not eligible for appointment or election to the Council unless he or she has been enrolled as an undergraduate for the two academic terms last preceding the date of the appointment or election.
- (8) A member appointed to the Council by the Council will be appointed for a term of two or four years to be determined—
  - (a) in the case of a member appointed on the recommendation of a selection committee—by that selection committee; and
  - (b) in the case of a member co-opted and appointed by the Council—by the Council.
- (9) A person elected by the Senate to the Council will be elected for a term of two years.
- (10) A member of the academic or general staff of the University elected to the Council will be elected for a term of two years.
- (11) A student of the University appointed or elected to the Council will be appointed or elected for a term of one year.
- (12) At the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.

### Casual vacancies

- 13. (1) The Council may remove an appointed or elected member of the Council from office for—
  - (a) mental or physical incapacity to carry out official duties satisfactorily; or
  - (b) failing, without reasonable excuse, to comply with the Council's requirements in relation to attendance at Council meetings; or
  - (c) conviction of an indictable offence; or
  - (d) serious misconduct.
  - (2) The office of an appointed or elected member becomes vacant if the member—
  - (a) dies; or
  - (b) completes a term of office and is not reappointed or re-elected; or
  - (c) does not continue in the capacity in which he or she was appointed or elected to membership of the Council (unless the date of the next appointment or election to his or her office is within three months from the date on which the member ceased to continue in the capacity in which he or she was appointed or elected); or
  - (d) resigns by notice in writing addressed to the Chancellor; or
  - (e) is removed from the office by the Council under subsection (1).
- (3) If a member of the Council is appointed by the Council to the office of Chancellor or Vice-Chancellor, a casual vacancy occurs in the office held by that member.
- (4) On the office of an appointed or elected member of the Council becoming vacant under this section, a person must be appointed or elected, as the case may require, to the vacant office in accordance with this Act.
- (5) Subject to this Act, a member appointed or elected to fill a casual vacancy in the membership of the Council holds office for the balance of the term of his or her predecessor.

## Repeal of ss. 15 to 17

15. Sections 15, 16 and 17 of the principal Act are repealed.

## Further amendments to principal Act

16. The principal Act is further amended as indicated in schedule 2.

# PART 4 AMENDMENT OF UNIVERSITY OF SOUTH AUSTRALIA ACT 1990

## Amendment of s. 3—Interpretation

17. Section 3 of the principal Act is amended by striking out the definition of "the Academic Board" and substituting the following definition:

## "the Academic Board" means-

- (a) the board established by the Council under that title; or
- (b) if another body is prescribed by the regulations of the University for the purposes of this definition, that other body;

### Substitution of s. 10 to 11a

18. Sections 10, 11 and 11a of the principal Act are repealed and the following sections are substituted:

## **Establishment of the Council**

- 10. (1) The Council of the University is established.
- (2) The Council is the governing body of the University and has as its principal responsibilities—
  - (a) overseeing the management and development of the University; and
  - (b) devising or approving strategic plans and major policies for the University; and
  - (c) monitoring and reviewing the operation of the University.
  - (3) The Council will consist of the following members:
  - (a) the Chancellor and the Vice-Chancellor who will be members of the Council ex officio;
  - (b) the presiding member of the Academic Board who will be a member of the Council ex officio or, if the Vice-Chancellor is the presiding member of the Academic Board, a member of the Academic Board elected by the Academic Board (but that person cannot be a student of the University);
  - (c) the presiding member of the Students Association of the University who will be a member of the Council ex officio;
  - (d) ten persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and six other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
  - (e) if the Council so determines, one person co-opted and appointed by the Council;
  - (f) two members of the academic staff, elected by the academic staff;
  - (g) two members of the general staff, elected by the general staff;

- (h) two students of the University, one of whom must be a postgraduate student and one of whom must be an undergraduate student, appointed or elected in a manner determined by the Vice-Chancellor after consultation with the presiding member of the Students Association of the University.
- (4) Where a person is appointed to the Council, the appointing authority must recognise that the Council is, as far as practicable, to be constituted of equal numbers of men and women who—
  - (a) have a commitment to education and, in particular, to higher education; and
  - (b) have an understanding of, and commitment to, the principles of equal opportunity and social justice and, in particular, to access and equity in education.
- (5) Of the members of the Council appointed on the recommendation of the selection committee, at least one must have qualifications and experience in financial management.
- (6) A member of the academic or general staff or student of the University is not eligible to be appointed to the Council by the Council.
- (7) A selection committee established for the purpose of making an appointment under subsection (3)(d) cannot recommend one of their number for appointment.

### Term of office

- 11. (1) A member appointed to the Council by the Council will be appointed for a term of two or four years to be determined—
  - (a) in the case of a member appointed on the recommendation of a selection committee—by that selection committee; and
  - (b) in the case of a member co-opted and appointed by the Council—by the Council.
- (2) A person elected by the Academic Board to the Council will be elected for a term of two years.
- (3) A member of the academic or general staff of the University elected to the Council will be elected for a term of two years.
- (4) A student of the University appointed or elected to the Council will be appointed or elected for a term of one year.
- (5) At the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.
- (6) The Council may remove an appointed or elected member of the Council from office for—
  - (a) mental or physical incapacity to carry out official duties satisfactorily; or
  - (b) failing, without reasonable excuse, to comply with the Council's requirements in relation to attendance at Council meetings; or

- (c) conviction of an indictable offence; or
- (d) serious misconduct.
- (7) The office of an appointed or elected member becomes vacant if the member—
- (a) dies; or
- (b) completes a term of office and is not reappointed or re-elected; or
- does not continue in the capacity in which he or she was appointed or elected to membership of the Council (unless the date of the next appointment or election to his or her office is within three months from the date on which the member ceased to continue in the capacity in which he or she was appointed or elected); or
- (d) resigns by notice in writing addressed to the Chancellor; or
- (e) is removed from the office by the Council under subsection (6).
- (8) If a member of the Council is appointed by the Council to the office of Chancellor or Vice-Chancellor, a casual vacancy occurs in the office held by that member.
- (9) On the office of an appointed or elected member of the Council becoming vacant under this section, a person must be appointed or elected, as the case may require, to the vacant office in accordance with this Act.
- (10) Subject to this Act, a member appointed or elected to fill a casual vacancy in the membership of the Council holds office for the balance of the term of his or her predecessor.

### Amendment of s. 12—Chancellor and Deputy Chancellor

- 19. Section 12 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:
  - (2) The Council may appoint a member of the Council or any other suitable person to the office of Chancellor for a term of four years on terms and conditions fixed by the Council.
  - (3) The Council may appoint a member of the Council to the office of Deputy Chancellor for a term of two years on terms and conditions fixed by the Council.

## Amendment of s. 13-Procedure at meetings of the Council

- 20. Section 13 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:
  - (2) A quorum of the Council is constituted by 11 members of the Council and no business may be transacted at a meeting of the Council unless a quorum is present.
  - (3) Each member present at a meeting of the Council is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.

## **SCHEDULE 1**

## Transitional Provisions

- 1. The offices of the appointed and elected members of the Council of the Flinders University of South Australia are vacated on the commencement of Part 2 of this Act.
- 2. The offices of the appointed and elected members of the Council of the University of Adelaide are vacated on the commencement of Part 3 of this Act.
- 3. The offices of the appointed and elected members of the Council of the University of South Australia are vacated on the commencement of Part 4 of this Act.

### **SCHEDULE 2**

## Further amendments to the University of Adelaide Act 1971

Provision Amended

How Amended

Long title Strike out "to repeal the University of Adelaide Act, 1935-1964;".

Section 2 Strike out this section.

Section 3 definition of

definition of

"the repealed Act"

Strike out this definition.

Strike out "(d)" and incorporate the text of that paragraph within "University grounds" the definition.

Strike out this subsection and substitute: Section 4(1)

(1) The University of Adelaide continues in existence.

Insert "a body corporate" after "The University is"; Section 4(2)

Strike out "shall not" and substitute "cannot".

Strike out "shall not" and substitute "cannot". Section 4(3)

Section 5 Strike out "shall" and substitute "must".

Section 6(1) - (3)Strike out "shall have" (wherever occurring) and substitute, in

each case, "has".

Insert "or her" after "him". Section 6(3)

Section 7(1) Strike out "shall" and substitute "must".

Section 7(5) Strike out "shall" (first occurring) and substitute "must";

Strike out "shall" (second occurring) and substitute "will";

Strike out "shall cease" and substitute "ceases";

Strike out "if he ceases" and substitute "on ceasing".

Section 7(6) Strike out "shall" and substitute "must".

Section 8(1) Strike out "shall" and substitute "must".

Section 8(3) Strike out "of this section";

Strike out "shall hold" and substitute "holds";

Strike out "shall" (second occurring) and substitute "is";

Strike out "his" and substitute "a";

Strike out "be" (second occurring).

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Section 8(4)	Strike out "shall" and substitute "may";
	Insert "or her" after "his";
	Strike out "thereto" and substitute "to it".
Section 10(2)	Strike out "shall" and substitute "does".
Section 14	Strike out "shall be" and substitute "is".
Section 18(1)	Strike out "shall be" and substitute "is".
Section 18(2)	Strike out "shall" and substitute "will".
Section 18(3)	Strike out "shall" and substitute "must".
Section 18(4)	Strike out "shall" and substitute "will".
Section 18(4a)	Strike out "shall be" and substitute "is".
Section 18(5)	Strike out "shall" and substitute "must".
Section 18(6)	Insert "or she" after "he".
Section 19(1)	Strike out "shall" (first occurring);
	Strike out "shall" (second occurring) and substitute "may".
Section 19(2)	Strike out "shall" and substitute "will".
Section 19(4)	Strike out "shall be" and substitute "is";
	Strike out "Chairman who shall have" and substitute "person presiding who has".
Section 19(5)	Strike out "shall preside as Chairman" and substitute "will preside";
	Strike out "Chairman" (second occurring) and substitute "member".
Section 20	Strike out "shall be" and substitute "is".
Section 21(1)	Strike out this subsection and substitute:
	(1) The Adelaide University Union continues in existence.
Section 21(2)	Strike out "shall be" and substitute "is".
Section 21(2)(a)	Strike out "shall be" and substitute "is".
Section 21(2)(b)	Strike out "shall" and substitute "is";
	Strike out "be".
Section 21(2)(c)	Strike out "shall have" and substitute "has".
Section 22(1)	Strike out "shall have" and substitute "has".

No. 72 of 1996	Statutes Amendment (University Councils) Act 1996 SCHEDULE
Section 22(1)(c)	Insert "within the University" after "establishing";
	Strike out "thereof within the University" and substitute "othem";
	Strike out "the administration thereof" and substitute "the administration".
Section 22(2b)	Strike out "of this section shall be" and substitute "is".
Section 22(2c)	Strike out "of this section".
Section 22(3)	Strike out "shall" and substitute "will".
Section 22(4)	Strike out "Section 38 of the Acts Interpretation Act, 1915, amended, shall" and substitute "Section 10 of the Subordinal Legislation Act 1978 does".
Section 23(1)	Strike out "shall have" and substitute "has".
Section 23(1)(b)	Strike out "thereof";
	Strike out "therein" and substitute "on the grounds".
Section 23(1)(j)	Strike out "thereon" and substitute "on the grounds".
Section 23(1)(m)	Strike out "therefrom" and substitute "from the grounds".
Section 23(1)(oa)	Insert "or she" after "he";
	Insert "or her" after "his";
	Strike out "shall" and substitute "must".
Section 23(1)(q)	Strike out "summarily" and substitute "on complaint".
Section 23(2)	Strike out "shall apply" (twice occurring) and substitute, in eacase, "applies".
Section 23(3)	Strike out "shall" and substitute "may".
Section 23(4)	Strike out "shall" and substitute "does".
Section 24(1)	Strike out this subsection.
Section 24(2)	Insert "or she" after "he".
Section 24(3)(aa)	Strike out "shall" and substitute "will".
Section 24(3)(a)	Strike out "shall be deemed" and substitute "will be taken".
Section 24(3)(b)	Strike out "vehicle referred to therein" and substitute "specifivehicle";
	Strike out "shall be deemed" and substitute "will be taken".
Section 24(3)(c)	Strike out "shall" and substitute "will".

No. 72 of 1996	Statutes Amendment (University Councils) Act 1996 SCHEDULE 2
Section 24(5)	Strike out "shall" and substitute "will".
Section 25	Strike out "shall" (wherever occurring) and substitute, in each case, "must";
	Strike out "the last day of" and substitute "30".
Section 26	Strike out "shall" and substitute "will".
Section 27	Strike out "shall be" and substitute "is".
Section 28	Strike out "to this Act";
	Strike out "shall".
Section 29	Strike out this section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor