

QUEENSLAND UNIVERSITY OF TECHNOLOGY AMENDMENT BILL 2021

Explanatory Notes

Short title

The short title of the Bill is the Queensland University of Technology Amendment Bill 2021.

Policy objectives and the reasons for them

The policy objectives of the Bill are to:

- implement governance reforms for Queensland University of Technology (QUT); and
- enable an appropriate balance between the number of members and a mix of necessary skills and expertise required for effective governance on the QUT Council (Council).

Queensland public universities are statutory bodies, each established by a relevant Act (collectively, the University Acts). The overall management of public universities is the responsibility of their governing body (Council or Senate). The composition of the respective governing bodies is prescribed under their relevant University Act.

QUT is a statutory body established under the *Queensland University of Technology Act 1998* (QUT Act). The QUT Act establishes the Council as QUT's governing body and gives it overall responsibility to ensure sound and effective governance of QUT. The QUT Act confers powers on the Council, including to:

- appoint QUT's staff;
- manage and control QUT's affairs and property; and
- manage and control QUT's finances.

The composition of the Council is defined in Part 2, Division 3 of the QUT Act, with four categories of members (official, appointed, elected, and additional):

- *Official members* are members of the Council due to their position at QUT. The Council's official members are QUT's Chancellor, Vice-Chancellor, and Chairperson of the Academic Committee;
- *Appointed members* are appointed by the Governor in Council (GiC) for a term of not more than four years;
- *Elected members* are elected pursuant to the QUT Act. Persons are eligible for election to the Council if they are members of QUT's academic or professional staff, or if they are QUT students or QUT alumni. Academic and professional staff, and alumni elected to the Council hold office for four years. Students elected to the Council hold office for two years; and

- *Additional members* are appointed by the Council for a term of not more than four years and must not be a QUT student or a member of QUT's academic or professional staff.

The amendments implement a change to the Council composition, including to reduce the size of its membership from 22 to 15, drawn from a model requested by QUT.

The amendments reduce the number of appointed members from eight to three; reduce the number of elected members from nine to five; and increase the number of additional members from two to four. The amendments also require the two elected student members to comprise of one undergraduate student and one postgraduate student. The amendments require that at least two additional members be alumni of QUT.

The changes to Council membership are aimed at increasing efficiency while still providing for an appropriate mix of skills and experience for effective governance. The reduction in the number of Council members is in line with Universities Australia's *Voluntary Code of Best Practice for the Governance of Australian Universities*.

Achievement of policy objectives

The Bill achieves the policy objectives by reducing the size of the Council from 22 to 15 members, providing for changes in the composition of the Council as follows:

- three GiC appointed members (reduced from eight);
- five elected members (reduced from nine) including:
 - two members of the academic staff of QUT (reduced from three);
 - one member of the professional staff of QUT (reduced from two);
 - no elected QUT alumni members (reduced from two); and
- four additional members (increased from two).

The Bill also introduces requirements to assist with the balance of representation on the Council:

- that at least two additional members are alumni of QUT; and
- of the two elected student members, one is to be an undergraduate student and one a postgraduate student.

As a result of reducing the size of the Council membership, the Bill makes minor and consequential amendments to provisions relating to the proper constitution of the Council, removal of a member from the Council, and minor editorial amendments consistent with drafting best practice.

The Bill also makes transitional arrangements to enable an ordered transition to the new Council membership with as little process and disruption to the Council as possible. This includes provisions for the mechanisms for reducing the numbers of appointed and elected members, increasing additional members, and introducing requirements for the composition of the elected student member and additional member categories.

Alternative ways of achieving policy objectives

Legislative amendment to the QUT Act is the only way to achieve the policy objectives.

Estimated cost for government implementation

There are no anticipated cost implications for government associated with the Bill.

Consistency with fundamental legislative principles

In accordance with section 4 of the *Legislative Standards Act 1992* (LS Act), it is considered the Bill is consistent with the fundamental legislative principles (FLPs). The Bill includes provisions to mitigate any potential impact to individual rights and liberties as a result of the amendments.

The Bill provides transitional provisions to enable an ordered transition to the new Council composition (Clause 12 – sections 74 to 81).

The majority of Council member positions will be unchanged by the amendments. A small number of member positions will not continue, to give effect to the reduction from 22 to 15 members.

This is potentially inconsistent with FLPs (section 4(3)(i) of the LS Act – compulsory acquisition of property without fair compensation, *loss of office without adequate compensation*). However, it is considered there is no breach of this FLP given that external Council members are not remunerated for being a member of the Council.

The Bill puts beyond doubt that where the term of a member ceases due to a legislative change, no compensation will be payable (Clause 12 – section 81).

Consultation

QUT consulted with the university community on the changes to the Council composition over the last two years which resulted in QUT's initial plans for a proposed council of 13 members to be increased to 15 members, which is the subject of the Bill.

The Department of Education (department) undertook consultation on an exposure draft of the Bill with QUT and all other Queensland public universities, and the National Tertiary Education Union (Queensland Branch) (NTEU).

QUT undertook consultation on an exposure draft of the Bill with its wider university community (approximately 65,000 persons) including academic and professional staff, students, Council members, Alumni Board, Student Guild, NTEU and Together Queensland.

The response rate to the QUT consultation with the university community was very low (as it had been for previous rounds), with only 10 responses, generally evenly spread between supporting, opposing, or neutral positions.

QUT supports the Bill. Two public universities responded and supported the Bill.

There were mixed views on the exposure draft of the Bill, and varied feedback on how best to constitute the Council.

The NTEU does not support the Bill, stating that sufficiently compelling reasons for reducing the membership of the Council have not been identified and the proposed changes will diminish the Council's transparency and public accountability.

Two responses were received by the department from current and previous QUT staff not supporting the Bill.

No changes were made to the Bill as a result of the consultation on the exposure draft of the Bill.

Consistency with legislation of other jurisdictions

The amendments in the Bill are specific to the State of Queensland.

Notes on provisions

Clause 1 states that, when enacted, the Bill will be cited as the *Queensland University of Technology Amendment Act 2021*.

Clause 2 states that, the Bill amends the *Queensland University of Technology Act 1998*.

Clause 3 amends section 14(1) to provide there are three appointed members of the Council.

Clause 4 amends section 15(1) to provide there are five elected members of the Council.

The clause also amends section 15(2) to provide there are five elected members who are:

- two members of the full-time and part-time academic staff;
- one member of the full-time and part-time professional staff;
- one undergraduate student; and
- one postgraduate student.

Clause 5 amends section 16(1) to provide there are four additional members of the Council.

The clause amends section 16(2) to provide that at least two additional members must be alumni of the university.

Clause 6 makes a consequential amendment to section 17 to reduce to eight or more members the number of members required for the Council to be taken to be properly constituted, whether they be additional, appointed, elected or official members. This is consequential to the overall reduction in the number of members of the Council.

Clause 7 makes a consequential amendment to section 19 to reflect changes made to section 15 which removes the reference to alumni as elected members.

Clause 8 makes consequential amendments to section 20A which deals with a causal vacancy in office of an elected member, to remove the reference to alumni (section 20A(5)), and remove subsection 20A(7).

Clause 9 makes a consequential amendment to section 24(1)(b)(ii) by changing the example for an elected member to an undergraduate student, consistent with amendments to section 15(2).

Clause 10 makes a consequential amendment to section 26B(1) to reduce to 10 the minimum number of members of the Council required to remove an elected, appointed or additional member from office if satisfied the member has not complied with section 26A(2) or a conduct obligation. This is consequential to the reduction in the number of members of the Council.

Clause 11 makes a consequential amendment to section 39C(1) to reduce to 10 the minimum number of members of the Council required to remove the chancellor, vice-chancellor or chairperson from office if satisfied the chancellor, vice-chancellor or chairperson has not complied with section 26A(2) or a conduct obligation. This is consequential to the reduction in the number of members of the Council.

Clause 12 inserts new Part 10 – Transitional provisions for Queensland University of Technology Amendment Act 2021, comprising of new sections 74 to 81.

Section 74 provides definitions for the terms used in part 10.

Section 75 provides that an appointed member who was appointed immediately before the commencement may continue with their term of office until the earlier of either the Minister removing them by notice given to the member under the new section 76, or the member's office becomes vacant.

Section 76 provides for the mechanism for reducing the number of appointed members, consequent to the amendments providing for the number of appointed members on the Council to be reduced to three. The Minister may as soon as practicable after the commencement of the Bill, remove an existing appointed member from office as an appointed member by notice given to the member, and when making the decision may have regard to the desirability of appointed members having a range of knowledge, experience or skills relevant to the functions of the Council. The removal of an appointed member takes effect on the day stated in the notice, which must not be earlier than the day the notice is given to the member.

Section 77 provides for the mechanism for reducing the number of elected members who are academic staff of the university, consequent to the provisions for reducing the number of elected academic staff members of the Council to two. The academic staff member who received the least number of votes in the same Council election will cease to be a member. In the event of a tie, the member to fill the position is determined by lot drawn by an appropriately qualified member of the university's staff who is to be nominated in writing by the Council to draw the lot.

Section 78 provides for the mechanism for reducing the number of elected members who are professional staff of the university, consequent to the amendments reducing the number of elected professional staff members of the Council to one. The professional staff member who received the least number of votes in the same Council election will cease to be member. In the event of a tie, the member to fill the position is determined by lot drawn by an appropriately qualified member of the university's staff who is to be nominated in writing by the Council to draw the lot.

Section 79 provides for the mechanism to implement the amendment requiring that the elected student members of the Council comprise one undergraduate student and one postgraduate student (see Clause 4). Each elected student member of the Council immediately before commencement of the Bill are to continue for the remainder of the member's respective term of office as if the Act had not commenced. The provisions relating to filling a casual vacancy for elected student members also continue to apply for the member's term as if the Act had not commenced. The amendments requiring elected student members of the Council to comprise one undergraduate and one postgraduate student are to take effect at the end of the term of office of the two student members who were elected immediately before commencement.

Section 80 provides that at the commencement, the terms of office of the two elected members who are QUT Alumni ends.

Section 81 provides that no compensation is payable to a person whose term of office ends under part new Part 10 – Transitional provisions for *Queensland University of Technology Amendment Act 2021*.

Clause 13 makes consequential amendments to the definition of *eligible person* for the class of elected members under Schedule 2 Dictionary. The clause removes reference to student and inserts references to an undergraduate student and a postgraduate student.

The clause also removes the reference to QUT Alumni.