

1996—No. 57

UNIVERSITY OF NEW ENGLAND ACT 1993—BY-LAW

(University of New England By-law)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the University of New England Act 1993, has been pleased to approve the By-law set forth hereunder.

J. Aquilina
Minister for Education and Training.

The Council of the University of New England, in pursuance of the University of New England Act 1993, makes the following By-law:

PART 1—PRELIMINARY

Citation

1. This By-law may be cited as the University of New England By-law.

Commencement

2. This By-law commences on 1 March 1996.

Interpretation

3. (1) Where this By-law empowers an authority or officer of the University to make rules, expressions used in any such rule have the same meaning as in the Act or in this By-law.

(2) In this By-law:

“the Act” means the University of New England Act 1993.

(3) In this By-law, references to an authority, officer or office are to be construed as references to that authority, officer or office in and of the University.

(4) In this By-law, a reference to the holder of an office is to be construed as including a reference to any person appointed to act for the time being in the place of the holder of the office.

(5) Notes in this By-law are explanatory notes and do not form part of the By-law.

PART 2—THE COUNCIL

Division 1—The Chancellor and Deputy Chancellor

The Chancellor and Deputy Chancellor

4 (1) The Chancellor and Deputy Chancellor are to be elected according to procedures determined by the Council.

(2) For the purposes of section 10 (2) of the Act, the prescribed period (being the period for which the Chancellor holds office) is 5 years.

(3) The Chancellor and Deputy Chancellor may, without specific appointment, exercise the right of membership of any committee of the University.

Division 2—Election of members of the Council

Returning Officer

5 (1) An election of any elected member of the Council is to be conducted by the Secretary to the Council who is to be the Returning Officer for the election.

(2) Subject to the provisions of the Act and this Division, the decision of the Returning Officer on all matters affecting the eligibility of candidates and the conduct and results of an election is to be final.

(3) The Returning Officer is to appoint a Deputy Returning Officer, and may appoint further Deputy Returning Officers, and other persons, to assist the Returning Officer in the conduct of all or any part of an election.

(4) An election is not invalid because of any failure from any cause to comply with a procedural requirement, or because of any mistake in the keeping of records or the sending of voting papers.

Rolls

6. The Returning Officer is to keep the following separate Rolls:
- (a) a Roll of Academic Staff containing the names and addresses of those persons who are members of the academic staff of the University, employed half-time or greater than half-time, and have had at least 12 months service at the University;
 - (b) a Roll of Non-Academic Staff containing the names and addresses of those persons who are members of the non-academic staff of the University employed half-time or greater than half-time, and have had at least 12 months service at the University, and whose names are not entered on the Roll of Academic Staff;
 - (c) a Roll of Undergraduate Students containing the names and addresses of those persons enrolled as candidates proceeding to a bachelor's degree (including bachelor's honours), or diploma or certificate of the University, other than a graduate diploma or graduate certificate, and whose names are not entered on the Roll of Academic Staff or the Roll of Non-Academic Staff or the Roll of Postgraduate Students;
 - (d) a Roll of Postgraduate Students containing the names and addresses of those persons enrolled as candidates proceeding to a degree or diploma or certificate other than a bachelor's degree, bachelor's honours degree, or non-graduate diploma or non-graduate certificate, and whose names are not entered on the Roll of Academic Staff, or the Roll of Non-Academic Staff or the Roll of Undergraduate Students;
 - (e) a Roll of Convocation Electors containing the names and addresses of all members of Convocation who have advised the Returning Officer in writing in response to an advertisement referred to in clause 2 (2) of Schedule 1, or at any other time, of their wish to receive voting papers in relation to an election referred to in section 9 (5) (e) of the Act, and furnished to the Returning Officer a statement of the qualifications by virtue of which the person is entitled to be a member of Convocation.

Qualifications for elected members

7. (1) The qualifications for election for a member of the Council referred to in section 9 (5) (a) of the Act are that the member must have his or her name entered on the Roll of Academic Staff at the close of nominations for the election.

(2) The qualifications for election for the member of the Council referred to in section 9 (5) (b) of the Act are that the member must have his or her name entered on the Roll of Non-Academic Staff at the close of nominations for the election.

(3) The qualifications for election ~~or~~ the member of the Council referred to in section 9 (5) (c) of the Act are that the member must have his or her name entered on the Roll of Undergraduate Students at the close of nominations for the election.

(4) The qualifications for election for the member of the Council referred to in section 9 (5) (d) of the Act are that the member must have his or her name entered on the Roll of Postgraduate Students at the close of nominations for the election.

(5) The qualifications for election for a member of the Council referred to in section 9 (5) (e) of the Act are that the member must have his or her name entered on the Roll of Convocation Electors at the close of nominations for the election (as provided for by clause 2 of Schedule 1).

(6) Nothing in this clause is to be read as entitling a person to stand for election for more than one position as a member of the Council merely because his or her name is entered on more than one Roll kept under this By-law.

(7) In this clause, a reference to the close of nominations for an election is a reference to the date and time by which nominations for the election must be received (as referred to in clause 4 (2) (f) of Schedule 1).

Qualifications to vote

8. (1) An academic staff member is qualified to vote in an election for a member of the Council referred to in section 9 (5) (a) of the Act if his or her name is entered on the Roll of Academic Staff at the close of nominations for the election.

(2) A non-academic staff member is qualified to vote in an election for the member of the Council referred to in section 9 (5) (b) of the Act if his or her name is entered on the Roll of Non-Academic Staff at the close of nominations for the election.

(3) An undergraduate student is qualified to vote in an election for the member of the Council referred to in section 9 (5) (c) of the Act if his or her name is entered on the Roll of Undergraduate Students at the close of nominations for the election.

(4) A postgraduate student is qualified to vote in an election for the member of the Council referred to in section 9 (5) (d) of the Act if his or her name is entered on the Roll of Postgraduate Students at the close of nominations for the election.

(5) A member of Convocation is qualified to vote in an election for a member of the Council referred to in section 9 (5) (e) of the Act if his or her name is entered on the Roll of Convocation Electors at the close of nominations for the election.

(6) In this clause, a reference to the close of nominations for an election is a reference to the date and time by which nominations for the election must be received (as referred to in clause 4 (2) (f) of Schedule 1.)

Election procedure

9. Subject to the provisions of this Division, an election is to be conducted by secret ballot in accordance with the procedures set out in Schedule 1.

Terms of office

10. The elected members of the Council hold office for the following periods:

- (a) the members who are elected by the academic staff of the University hold office for 2 years from the date of election;
- (b) the member who is elected by the non-academic staff of the University holds office for 2 years from the date of election;
- (c) the member who is elected by the undergraduate students of the University holds office for 1 year from the date of election;
- (d) the member who is elected by the postgraduate students of the University holds office for 1 year from the date of election;
- (e) the members who are elected by Convocation hold office for 4 years from the date of election.

Note. The terms of office of other members of the Council are set out in Schedule 1 (1) to the Act.

Casual vacancy

11. (1) If a casual vacancy in the office of a member of the Council elected pursuant to section 9 (5) of the Act occurs within the first 12 months of the term of that office, the Council is to appoint as a member of the Council the candidate, if any, who in the election immediately preceding the occurrence of the vacancy received the greatest number of votes of the candidates for that office who were not elected and who remain qualified to hold that office. The candidate holds office for the remainder of the term of office of the candidate's predecessor.

(2) If a casual vacancy in the office of a member of the Council elected pursuant to section 9 (5) of the Act occurs otherwise than within the first 12 months of the term of that office, or if a vacancy occurring within those 12 months cannot be filled under subclause (1), the Council must, as soon as practicable after the vacancy occurs, appoint a member (being a person qualified to hold that office) for the remainder of the term of office.

PART 3—CONVOCATION

Additional staff members of Convocation

12. For the purposes of section 14 (1) (c) of the Act, Convocation includes such members of staff of the University as:

- (a) have had at least 12 months' service in the University; and
- (b) are persons, or members of a group of persons, invited by the Council to be members of Convocation.

Convocation may include persons who have been of service to the University

13. For the purposes of section 14 (1) (d) of the Act, the Council may, by resolution, admit as members of Convocation such persons as it considers have given conspicuous service to, or are specially qualified to advance the interests of, the University.

Function of Convocation

14. The function of Convocation is to submit to the Council such proposals as Convocation deems appropriate with respect to the welfare of the University.

Quorum for meetings of Convocation

15. A quorum for a general meeting of Convocation is 100 members.

PART 4—RULES

Making of rules

16. (1) The Council is empowered to 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 29 of the Act.

(2) The Council may empower the Vice-Chancellor to make rules about any subject matter for or with respect to which the Council may make rules.

Publication of rules

17. As soon as possible after a rule is made or amended, it must be promulgated by publication in an appropriate way by the University.

Note. A rule takes effect on the day on which it is published or on such later day as may be specified in the rule (section 29 (2) (c) of the Act).

Inconsistency between rules

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

PART 5—MISCELLANEOUS

Revocation of former By-laws

19. (1) The By-laws of the University of New England (as in force immediately before the commencement of this clause) are revoked.

(2) Any act, matter or thing that, immediately before the revocation of the By-laws, had effect under those By-laws is taken to have effect under this By-law.

SCHEDULE 1—PROCEDURES FOR THE CONDUCT OF ELECTIONS FOR MEMBERS OF THE COUNCIL

Application of this Schedule

1. The procedures set out in this Schedule apply to and in respect of the election of members of the Council referred to in section 9 (5) of the Act.

Compilation of the Roll of Convocation Electors

2. (1) For the purposes of compiling the Roll of Convocation Electors, a person who becomes a member of Convocation must, at that time, be invited to indicate whether that person intends that his or her name be placed on the Roll of Convocation Electors.

(2) At least 60 days prior to each election referred to in section 9 (5) (e) of the Act, the Returning Officer must place two or more advertisements in the national press stating that a review of the Roll of Convocation Electors is being conducted and that any member of Convocation may apply in writing to the Returning Officer requesting that his or her name be placed on the Roll of Convocation Electors.

(3) A person whose name is on the Roll of Convocation Electors and who does not vote in two consecutive elections is to have his or her name removed from the Roll of Convocation Electors.

(4) A member of Convocation whose name has been removed from the Roll of Convocation Electors pursuant to subclause (3) may, subject to subclause (5), apply in writing to the Returning Officer for the reinstatement of his or her name on the Roll of Convocation Electors and, if duly entitled, the member's name is to be reinstated.

(5) The Roll of Convocation Electors is to be closed 21 days prior to the date of publication of the notice referred to in clause 4 (1) (b) of this Schedule.

Note. Convocation consists of:

- (a) the graduates of the University; and
- (b) the members and past members of the Council of the University; and
- (c) the present and past full-time members of the academic staff of the University; and
- (d) such other members of staff of the University as have had at least 12 months' service in the University and are persons, or members of a group of persons, invited by the Council to be members of Convocation; and
- (e) such persons as the Council resolves to admit as members of Convocation.

See section 14 of the Act and Part 3 of this By-law.

Time periods relating to the conduct of elections

3. In the conduct of an election referred to in this Schedule, the Returning Officer is to allow an interval:

- (a) between the publication of the notice referred to in clause 4 and the time prescribed for the receipt of nominations, of not less than 14 days; and
- (b) between the time prescribed for the receipt of nominations and the issue of voting papers, of not more than 28 days; and
- (c) between the issue of voting papers and the time by which voting papers must be received by the Returning Officer, of not less than 14 nor more than 28 days.

Publication of notices

4. (1) Where an election for membership of the Council is necessary, the Returning Officer must publish on notice boards in the University and in University news sheets a notice and must:

- (a) in the case of an election of a person referred to in section 9 (5) (c) and 9 (5) (d) of the Act, advise external students by notice mailed to such students; and
- (b) in the case of an election of persons referred to in section 9 (5) (e) of the Act, advise members of Convocation on the Roll of Convocation Electors by notice mailed to such members.

(2) A notice referred to in subclause (1) must:

- (a) state that an election is necessary; and
- (b) specify the class or classes of persons in the electorate; and

- (c) set out the number of vacancies to be filled; and
- (d) invite nominations for election; and
- (e) specify the form in which nominations are to be made; and
- (f) prescribe the date and time by which nomination papers must be received by the Returning Officer; and
- (g) specify how ballot papers can be obtained.

(3) The notice may contain such other information relating to the election as the Returning Officer thinks fit.

Nomination of candidates for election

5. (1) Nomination of a person as a candidate at an election referred to in this By-Law is to be made by sending or delivering a nomination paper to the Returning Officer.

(2) A nomination paper must:

- (a) be signed by two persons entitled to vote at the election for which the person is nominated as a candidate; and
- (b) be endorsed with, or accompanied by, the written consent of the person being nominated.

(3) There is to be a separate nomination paper for each person nominated.

(4) The Returning Officer must reject a nomination paper if the Returning Officer is satisfied that:

- (a) it is not made in accordance with this clause; or
- (b) the person nominated is not eligible to be elected.

(5) A candidate nominated for election may not withdraw that nomination after the date and time prescribed under clause 4 (2) (f) of this Schedule.

Necessity for elections to be held and conduct of the ballot

6. (1) Where, in an election of persons to whom this Schedule applies:

(a) the number of nominations for the election does not exceed the number of vacancies to be filled, the Returning Officer must declare the person or persons nominated to be elected; or

(b) the number of nominations for the election exceeds the number of vacancies to be filled, the Returning Officer must:

- (i) in the case of an election of persons referred to in section 9 (5) (a) of the Act, send or deliver a voting paper and notice to each person whose name is on the Roll of Academic Staff or
- (ii) in the case of an election of a person referred to in section 9 (5) (b) of the Act, send or deliver a voting paper and notice to each person whose name is on the Roll of Non-Academic Staff or
- (iii) in the case of an election of a person referred to in section 9 (5) (c) of the Act, send or deliver a voting paper and notice to each person whose name is on the Roll of Undergraduate Students; or

- (iv) in the case of an election of a person referred to in section 9 (5) (d) of the Act, send or deliver a voting paper to each person whose name is on the Roll of Postgraduate Students; or
- (v) in the case of an election of persons referred to in section 9 (5) (e) of the Act, send or deliver a voting paper and notice to each person whose name is on the Convocation Roll of Electors.

(2) A notice referred to in subclause (1) (b) must:

- (a) specify the manner in which the voting paper is to be completed; and
- (b) state the date and time by which the completed voting paper must be received by the Returning Officer.

(3) Where, before the declaration of the poll, a person:

- (a) who is nominated as a candidate for the election dies; or
- (b) becomes no longer eligible to be elected,

the election is to proceed as if the person had not been nominated and that person's name had not been included on the voting paper and any vote recorded in that person's favour had not been cast.

Manner of voting

7. (1) A voter must, subject to subclause (2), place a cross in the square appearing opposite the name of each candidate for whom that voter intends to vote.

(2) A voter must not vote for more candidates than there are vacancies to be filled at the election.

(3) If a voter votes for more candidates than there are vacancies to be filled at the election, the vote is informal.

Sealing of voting papers in envelopes

8. (1) With each voting paper issued for an election referred to in section 9 (5) of the Act, there is to be issued an envelope marked 'Voting Paper' and an envelope addressed to the Returning Officer.

(2) Voting papers are to contain the names of candidates in random order determined by lot by the Returning Officer.

(3) Each voter must:

- (a) place the voting paper completed in accordance with clause 7 of this Schedule in the envelope marked "Voting Paper" and seal that envelope; and
- (b) place that sealed envelope in the envelope addressed to the Returning Officer; and
- (c) complete the form of declaration of identity and voting entitlement to be enclosed with the "Voting Paper" envelope in the outer envelope and seal the outer envelope; and
- (d) send by post or deliver the outer envelope containing the voting papers and declaration to the Returning Officer.

(4) On receipt of a sealed envelope addressed to the Returning Officer, the Returning Officer must open the outer envelope, and check the declaration with the relevant Roll keeping the declaration within the unsealed outer envelope.

(5) If the Returning Officer:

- (a) is satisfied that the voter is qualified to vote in the election, the Returning Officer must place the outer envelope containing the voting paper and declaration in a ballot box and the voting paper envelope is to remain unopened until the close of the poll; or
- (b) is satisfied that the voter is not qualified to vote at the election, the Returning Officer must place the envelope in a receptacle for rejected voting papers and the envelope is to be destroyed forthwith after the declaration of the poll.

(6) After the close of the poll, the Returning Officer or persons appointed by the Returning Officer for the purpose, must open the voting paper envelopes placed in the ballot box and the Returning Officer must ascertain the result of the election in accordance with clause 10 of this Schedule.

Voting conduct

9. The Returning Officer must:

- (a) not accept a vote unless the Returning Officer is satisfied that it has been cast by a person entitled to vote at the election and that the voter has only voted once at that election; and
- (b) not accept a voting paper unless it is received by the Returning Officer before the close of the poll; and
- (c) decide whether any voting paper is to be accepted or rejected; and
- (d) on written application made to the Returning Officer that a voting paper has been lost or destroyed, supply a duplicate voting paper to the person to whom the lost or destroyed voting paper was sent or delivered if the Returning Officer is satisfied that the voting paper was so lost or destroyed.

Counting of votes

10. (1) In this clause, “continuing candidate”, in relation to any count, means a candidate not already declared elected.

(2) The result of the ballot is to be ascertained by the Returning Officer in accordance with the following provisions:

- (a) the Returning Officer must examine the voting papers and reject those which do not comply with the requirements of this By-law;
- (b) the Returning Officer must then count the total number of votes given to each candidate;
- (c) the candidate polling the highest number of votes is to be declared elected; and
- (d) where the number of candidates to be elected is more than one, the candidate polling the next highest number of votes after the first candidate declared elected pursuant to paragraph (c) is also to be declared elected and the process of electing the candidate with the highest number of votes from the continuing candidates is to be continued until the number of vacancies has been filled.

(3) If the total number of votes received by two or more candidates for any vacancy is equal and it is necessary to exclude one or more of them in respect of that vacancy, the Returning Officer must:

- (a) write the names of each candidate in respect of whom the determination is to be made on separate and similar slips of paper; and
- (b) fold the slips so as to prevent identification; and
- (c) place the folded slips in a receptacle and mix them together; and
- (d) draw out a slip at random; and
- (e) declare elected the candidate whose name appears on the slip drawn out.

Scrutineers

11. Each candidate at an election is entitled to nominate one scrutineer to be present at the count of votes.

Votes not to be disclosed

12. A person must not in any way disclose or aid in disclosing the manner in which any voter has voted.

Note. An election is to be conducted by secret ballot (clause 9 of this By-law).

We certify that the SEAL of The
University of New England was hereto
affixed BY RESOLUTION OF THE COUNCIL OF
THE UNIVERSITY
made on 17 August 1994.

BRUCE THOM
Vice-Chancellor

JOHN SHARPHAM
Secretary to Council

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SCHEDULE 1—PROCEDURES FOR THE CONDUCT OF ELECTIONS FOR MEMBERS OF THE COUNCIL

EXPLANATORY NOTE

The object of this By-law is to revoke the former By-laws of the University of New England that were continued in force by the University of New England Act 1993 and to replace those By-laws with a new By-law. This By-law:

- (a) provides for the method of election and the period of office of the Chancellor and Deputy Chancellor of the University of New England; and
- (b) provides for the method of election of the elected members of the Council of the University (including the qualifications of members and electors); and
- (c) provides for additional members of Convocation; and
- (d) sets out the functions and other matters relating to Convocation; and
- (e) gives the Council of the University power to make rules with respect to any matter for which a by-law may be made (except those matters in respect of which rules cannot be made by virtue of section 29 of the Act) and allows the Council to empower the Vice-Chancellor to make such rules; and
- (f) provides generally for the making of rules under the Act.

This By-law is made under the University of New England Act 1993, including section 14 (Convocation), section 29 (Rules) and section 28 (the general by-law making power), and in particular section 28 (1) (b), clause 3 of Schedule 1 to the Act and the other provisions referred to in this By-law.
