

1992—No. 391

UNIVERSITY OF NEWCASTLE ACT 1989—BY-LAW

(Relating to staff and student discipline, courses of study and awards, academic dress, fees and charges, management of University precincts, residential accommodation, the University seal and the making of rules)

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 Newcastle Act 1989, has been pleased to approve the By-law made by the Council of the University of Newcastle and set forth hereunder.

VIRGINIA CHADWICK
Minister for School Education and Youth Affairs.

The Council of the University of Newcastle, in pursuance of the University of Newcastle Act 1989, hereby makes the By-law set forth hereunder:

The University of Newcastle By-law is amended:

(a) by inserting at the end of clause 3 the following matter:

CHAPTER 6—DISCIPLINE

Division 1—Staff Discipline

Division 2—Student Discipline

CHAPTER 7—COURSES OF STUDY AND AWARDS

Division 1—Admission and Enrolment

Division 2—Awards

CHAPTER 8—ACADEMIC DRESS

CHAPTER 9—FEES CHARGES AND FINES

CHAPTER 10—MANAGEMENT OF UNIVERSITY PRECINCTS

CHAPTER 11—RESIDENTIAL ACCOMMODATION
CHAPTER 12—THE SEAL OF THE UNIVERSITY
CHAPTER 13—RULES

(b) by omitting clause 4 and by inserting instead the following clause:

Repeals

4. (1) The University of Newcastle By-laws made under the University of Newcastle Act 1964 are repealed.

(2) The Newcastle College of Advanced Education By-law is repealed.

(c) by inserting after Chapter 5 the following Chapters:

CHAPTER 6—DISCIPLINE
Division 1—Staff Discipline

Application of Division

60. This Division applies to such members of staff or categories of staff as are prescribed by the rules made by the Council.

Action to be taken in accordance with industrial awards or rules

61. Action of a disciplinary nature for misconduct of a serious nature is not to be taken against a member of staff to whom this Division applies otherwise than in accordance with:

- (a) the provisions of an industrial award, agreement or legislation applicable to the member of staff or the category of staff to which the member belongs; or
- (b) in the absence of any such industrial award, agreement or legislation, the rules made by the Council.

Vice-Chancellor's decision to dismiss requires ratification

62. A decision by the Vice-Chancellor to dismiss a member of staff in accordance with the rules made by the Council is of no effect until the Council ratifies it.

Natural justice to apply to members of staff

63. Any action taken under the provisions of, or the rules made under, this Division against a member of staff must accord with the principles of natural justice.

Rules about staff discipline

64. The Council may make rules for carrying out or giving effect to this Division.

Division 2—Student Discipline**Definitions**

65. In this Division:

“**in the University**” and similar expressions include any place where a student is present under the auspices of the University;

“**student**” means any person who is enrolled in a course of studies leading to an award of the University or who is duly authorised to attend classes at the University.

Meaning of student misconduct

66. (1) In this Division:

“**misconduct**” means conduct on the part of a student:

- (a) which impairs the reasonable freedom of other persons to pursue their studies, researches, duties or lawful activities in the University or on University premises or to participate in the life of the University; or
- (b) which is otherwise detrimental to the proper conduct of the University or causes damage to University property.

(2) Without limiting the generality of the definition in subclause (1), “**misconduct**” includes the following:

- (a) wilfully disrupting any teaching, study, examination or research activities or the administration of the University;
- (b) wilfully obstructing any officer or employee of the University in the performance of his or her duties;
- (c) wilfully damaging or wrongfully dealing with any University property or any property in or on University premises;
- (d) disobeying or failing, without reasonable cause, to observe any provision of this By-law, of any rule made by the Council or of any resolution of the Council of which the students have been duly notified;
- (e) disobeying, without reasonable cause, any instruction of an officer or employee of the University, including failing to leave any building or part of a building when directed to do so;
- (f) withholding relevant information or furnishing false or misleading information for purposes connected with academic progression or enrolment or proposed enrolment

as a student, whether such withholding or furnishing of information takes place before or after the person becomes a student of the University;

- (g) contravening any rule made by the Council in relation to the conduct of written examinations;
- (h) acting dishonestly or unfairly with respect to:
 - (i) the preparation or presentation of any essay, project, thesis or other work to be assessed; or
 - (ii) any examination conducted by or within the University;
 - (i) assaulting a person on University premises.

Interim suspension

67. (1) If, in the opinion of the Vice-Chancellor, the circumstances of an alleged act of misconduct on the part of a student are such that immediate suspension of the student is necessary in the interests of the University, the Vice-Chancellor may suspend the student from the University and its precincts until the student's case is determined.

(2) When a student has been suspended under this clause, the hearing of the student's case must begin as soon as possible and, in any event, within 4 weeks after the student was suspended.

(3) The suspension of a student under this clause may be lifted by the Vice-Chancellor or by the Council at any time whether or not the case has been dealt with to finality.

Proceedings for misconduct

68. (1) A student's case is to be heard and determined by the Vice-Chancellor or by a Disciplinary Committee constituted in accordance with the rules.

(2) A student may appeal to the Council from any decision of the Vice-Chancellor or a Disciplinary Committee with respect to an alleged act of misconduct on the part of the student.

Rules about acts of misconduct

69. (1) The Council may make rules for or with respect to the procedures to be followed and the penalties which may be imposed in relation to acts of misconduct.

(2) The maximum monetary penalty that the rules may authorise to be imposed is a fine of \$500.

Natural justice to apply to students

70. Any action taken under the provisions of, or the rules made under, this Division against a student must accord with the principles of natural justice.

Rules about discipline in residential accommodation

71. The Council may make rules for or with respect to discipline in residential colleges and halls of residence established within the University.

CHAPTER 7—COURSES OF STUDY AND AWA RDS**Division 1—Admission and Enrolment****Rules about admission and enrolment**

72. The Council may make rules for or with respect to the admission to candidature for, and the enrolment of persons in any course or any part of any course leading to, an award of the University.

Termination of enrolment

73. (1) The enrolment or continued enrolment of a student in the University in a course or part of a course may be terminated, or approved subject to conditions, if the student fails to maintain satisfactory academic progress or fails to meet any academic requirement governing that course.

(2) The Council may make rules for carrying out or giving effect to this clause.

Division 2—Awards**Rules about awards, examinations etc.**

74. The Council may make rules for or with respect to the following:

- (a) the degrees, diplomas and certificates which may be conferred or awarded by the University;
- (b) the requirements and procedures for the conferment of degrees and the award of diplomas and certificates;
- (c) the conditions of the award, and the procedures for the granting, of fellowships, scholarships, bursaries, prizes, exhibitions and medals;
- (d) the examinations of the University.

Awards ad eundem gradum or honoris causa

75. The Council, of its own motion or on the recommendation of the Academic Senate, may make awards ad eundem gradum or honoris causa to persons who, in the opinion of the Council, are eligible for or might properly be honoured by those awards.

CHAPTER 8—ACADEMIC DRESS**Rules about academic dress**

76. The Council may make rules for or with respect to the form and usage of academic dress for the Chancellor, Deputy Chancellor, Vice-Chancellor, members of the Council, staff and officers of the University and graduates, holders of awards and students of the University.

CHAPTER 9—FEES, CHARGES AND FINES**Fees, charges and fines**

77. The Council may impose such fees, charges and fines as the Council considers necessary, including fees, charges and fines to be paid in respect of:

- (a) entrance to the University;
- (b) tuition;
- (c) lectures and classes;
- (d) examinations;
- (e) residence;
- (f) the conferring of degrees and the awarding of diplomas and other certificates;
- (g) the use of amenities and the provision of services, whether or not of an academic nature;
- (h) traffic and parking, including the imposition and payment of penalties for traffic and parking infringements;
- (i) membership of University bodies and societies.

Exemptions and deferments

78. The Council may grant exemptions from, or deferments of, the payment of fees, charges and fines.

Rules about fees, charges and fines

79. The Council may make rules for carrying out or giving effect to this Chapter.

CHAPTER 10—MANAGEMENT OF UNIVERSITY PRECINCTS**Rules about traffic and parking**

80. (1) The Council may make rules for or with respect to:

- (a) the regulation of traffic on any land of the University and, in particular, the driving, parking and using of vehicles on any such land;
- (b) the causing, or allowing, of vehicles to stop or stand on any land of the University;
- (c) the affixing of stickers on vehicles;
- (d) the removal of vehicles parked in breach of the rules;
- (e) the disciplining of persons who contravene the rules.

(2) A breach of the rules made under this clause is not to be dealt with as an offence against discipline under Chapter 6 of this By-law.

Rules about management of University

81. Without limiting any other provision of this By-law, the Council may make rules for or with respect to the management and good government of the University, including rules regarding the access of persons to any premises or buildings of the University.

CHAPTER 11—RESIDENTIAL ACCOMMODATION**Establishment of residential accommodation**

82. The Council may establish, or permit to be established, residential colleges and halls of residence within the University.

Rules about management and conduct of residential accommodation

83. The Council may make rules for or with respect to the management and conduct of residential colleges or halls of residence established, or permitted to be established, under clause 82.

CHAPTER 12—THE SEAL OF THE UNIVERSITY**Custody of the seal**

84. The seal of the University is to be kept in the custody of the Secretary to the University.

Manner of affixing the seal

85. The affixing of the seal of the University to any document is to be attested on that document by:

- (a) the Chancellor, Deputy Chancellor, Vice-chancellor or a Deputy Vice-Chancellor; and
- (b) the Secretary to the University.

Absence of Secretary

86. In the absence of the Secretary to the University for any reason, the responsibilities in respect of the affixing and the attesting of the affixing of the seal of the University may be exercised by a person approved by resolution of the Council to do so on behalf of the Secretary to the University.

CHAPTER 13—RULES**Other rule empowering provisions not affected**

87. Nothing in this Chapter affects any other provision of this By-law empowering the making of rules.

Making of rules

88. (1) The Council may make rules to give effect to any provision of this By-law and to regulate any matter specified in the Act as being a matter for or with respect to which by-laws may be made.

(2) The Vice-Chancellor may, with the concurrence of the Council, make rules to give effect to any provision of this By-law that is required or permitted to be regulated by rules made by the Council.

(3) In the event of any inconsistency between the rules made by the Council and the rules made by the Vice-Chancellor, the rules made by the Council prevail.

Publication of rules

89. (1) A rule made by the Council or the Vice-Chancellor must be published by means of a notice displayed on the official notice board of the University.

(2) A rule takes effect on the day on which it is published in accordance with this clause or on such later day as may be specified in the rule.

(3) Information concerning the making of the rule, and the means of obtaining a copy of the rule, must be published in an appropriate University publication as soon as possible after the rule is made.

NOTES

As a consequence of these amendments to the University of Newcastle By-law, the Table of Provisions of the By-law should have the following matter inserted in it:

CHAPTER 6—DISCIPLINE

Division 1—Staff Discipline

- 60. Application of Division
- 61. Action to be taken in accordance with industrial awards or rules
- 62. Vice-chancellor's decision to dismiss requires ratification
- 63. Natural justice to apply to members of staff
- 64. Rules about staff discipline

Division 2—Student Discipline

- 65. Definitions
- 66. Meaning of student misconduct
- 67. Interim suspension
- 68. Proceedings for misconduct
- 69. Rules about acts of misconduct
- 70. Natural justice to apply to students
- 71. Rules about discipline in residential accommodation

CHAPTER 7—COURSES OF STUDY AND AWARDS

Division 1—Admission and Enrolment

- 72. Rules about admission and enrolment
- 73. Termination of enrolment

Division 2—Awards

- 74. Rules about awards, examinations etc.
- 75. Awards ad eundem gradum or honoris causa

CHAPTER 8—ACADEMIC DRESS

- 76. Rules about academic dress

CHAPTER 9—FEES, CHARGES AND FINES

- 77. Fees, charges and fines
- 78. Exemptions and deferments
- 79. Rules about fees, charges and fines

CHAPTER 10—MANAGEMENT OF UNIVERSITY PRECINCTS

- 80. Rules about traffic and parking
- 81. Rules about management of University

CHAPTER 11—RESIDENTIAL ACCOMMODATION

- 82. Establishment of residential accommodation
- 83. Rules about management and conduct of residential accommodation

CHAPTER 12—THE SEAL OF THE UNIVERSITY

- 84. Custody of the seal
- 85. Manner of affixing the seal
- 86. Absence of Secretary

CHAPTER 13—RULES

- 87. Other rule empowering provisions not affected
- 88. Making of rules
- 89. Publication of rules

EXPLANATORY NOTE

The object of this By-law is amend the University of Newcastle By-law so as to insert provisions relating to:

- (a) the power to make rules about staff and student discipline, the definition of student “misconduct”, interim suspension of students and the application of the principles of natural justice (Chapter 6); and
- (b) the power to make rules about admission, enrolment, awards and examinations etc., the termination of enrolments and the form and usage of academic dress (Chapters 7 and 8); and
- (c) the power to make rules about fees for University entrance, tuition, lectures etc., charges for the provision of various services and fines for traffic and parking infringements (Chapter 9); and
- (d) the power to make rules about the management and good government of the University, including access to premises and buildings and the regulation of traffic on University land (Chapter 10); and
- (e) the establishment of residential colleges and halls of residence within the University and the power to make rules about their management (Chapter 11); and

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- (f) the custody and manner of affixing the seal of the University (Chapter 12); and
- (g) the general rule-making power of the Council, and of the Vice-Chancellor with the Council's concurrence, and the publication of rules (Chapter 13).

This By-law also repeals By-laws made under the University of Newcastle Act 1964 and the Newcastle College of Advanced Education By-law.

K. J. MORGAN
Vice-Chancellor

P. D. ALEXANDER
Secretary