

**1994—No. 546**

**UNIVERSITY OF TECHNOLOGY, SYDNEY, ACT  
1989—BY-LAW**

(Relating to elections and the Academic Board of the University of Technology, Sydney)

NEW SOUTH WALES



*[Published in Gazette No. I39 of 14 October 1994]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the University of Technology, Sydney, Act 1989, has been pleased to approve the By-law made by the Council of the University of Technology, Sydney, and set forth hereunder.

**VIRGINIA CHADWICK**  
Minister for Education, Training and Youth Affairs.

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The Council of the University of Technology, Sydney, in pursuance of the University of Technology, Sydney, Act 1989, makes the following By-law:

**Commencement**

**1.** This By-law commences on 1 November 1994.

**Amendments**

**2.** The University of Technology, Sydney, By-law 1990 is amended:

(a) by omitting clause 12;

(b) by inserting after clause 13 (2) the following subclause:

(3) The Returning Officer's decision is, subject to the Act and this By-law, final on all matters affecting the eligibility of candidates, the conduct and results of an election and such other matters as may from time to time affect the conduct of elections.

(c) by inserting after clause 18 the following clauses:

**Call for nominations**

18A. (1) If an election of members of the Council is necessary, the Returning Officer must publish on the official noticeboards on the premises of the University a notice and:

- (a) in the case of an election of staff members of the Council, must send or deliver a copy of the notice to each person whose name is on the relevant roll of staff of the University; and
- (b) in the case of an election of student members of the Council, must publish or cause to be published such copies of the notice in such manner as is considered necessary to inform students of its contents; and
- (c) in the case of an election of Convocation members of the Council, must publish the notice in such daily newspapers as the Returning Officer considers necessary, including a daily newspaper circulated nationally, and must send or deliver a copy of the notice to each person whose name is on the Roll of Convocation.

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

- (a) state that an election is necessary; and
- (b) state the number of vacancies to be filled and the term of office of the members of the Council to be elected; and
- (c) invite nominations of persons for election; and
- (d) specify the form in which nominations must be made; and
- (e) specify a date and time by which nomination papers must reach the Returning Officer; and
- (f) specify how ballot papers may be obtained; and
- (g) specify a date and time by which ballot papers must reach the Returning Officer; and
- (h) contain such other information relating to the election as the Returning Officer thinks fit.

(3) An election is not invalid because a person whose name is on the relevant roll of staff or students of the University or the Roll of Convocation did not sight a notice or a copy of a notice, or did not receive a copy of a notice, referred to in subclause (1).

**Schedule of dates for Council elections**

18B. In the conduct of an election of members of the Council, the Returning Officer must allow:

- (a) between the publication of the notice under clause 18A (1) stating that an election is necessary and the date and time specified under clause 18A (2) (e) for the receipt of nominations—not less than 14 and not more than 28 days; and
- (b) between the date and time specified under clause 18A (2) (e) for the receipt of nominations and the issue of ballot papers under clause 18E—not more than 28 days; and
- (c) between the issue of ballot papers under clause 18E and the date and time specified under clause 18A (2) (g) by which ballot papers so issued must reach the Returning Officer—not less than 14 and not more than 28 days.

### **Making of nominations**

18C. (1) Nominations of candidates for an election of members of the Council must be made by sending or delivering nomination papers to the Returning Officer.

(2) A nomination paper must be signed by two persons entitled to vote at the election for which the candidate is nominated and must be endorsed with or accompanied by the written consent of the person nominated.

(3) There must be a separate nomination paper for each candidate.

(4) A candidate may provide with the nomination paper a statement of not more than 150 words which may include the following information relating to the candidate:

- (a) full name;
- (b) faculty, school or department;
- (c) academic qualifications and experience;
- (d) positions or offices held at any time in public bodies, clubs and institutions (including University clubs and societies) with dates of tenure.

(5) The information must be edited by the Returning Officer and printed as a summary of information for distribution with the ballot papers.

(6) The Returning Officer must reject any nomination paper if satisfied that:

- (a) the nomination is not duly made; or
- (b) the person nominated is not eligible to be elected.

(7) The Returning Officer must send or deliver a notice to any person who has signed or endorsed a nomination paper under subclause (2), stating acceptance or rejection of the nomination, within four days of receipt of the nomination paper.

#### **Dealing with nominations**

18D. (1) If the number of persons nominated for a Council election is less than or equal to the number of positions to be filled, the Returning Officer must declare the person or persons nominated to be elected.

(2) If the number of nominations for a Council election exceeds the number of positions to be filled, there must be a ballot.

(3) A ballot for a Council election must be a secret ballot using the optional preferential system.

#### **Conduct of the ballot**

18E. (1) The Returning Officer must, if there is to be an election for staff members of the Council, send or deliver a ballot paper to each person whose name is on the relevant roll of staff of the University.

(2) The Returning Officer must, if there is to be an election for student members of the Council:

- (a) publish in such manner as the Returning Officer considers necessary a notice specifying the dates and times of polling, the location of polling booths and any other relevant information; and
- (b) establish on the University premises polling booths attended, during the dates and times for polling, by persons appointed by the Returning Officer for the purpose of issuing a ballot paper to each person who requests one and is recognised by one of the appointed attendants as being eligible to vote; and
- (c) forward a ballot paper to each student who has applied for the issue of a ballot paper by post and whose application has been received not later than 10 days before the date of the election.

(3) The Returning Officer must, if there is to be an election for Convocation members of the Council, send or deliver a ballot paper to each person whose name is on the Roll of Convocation.

(4) Following receipt of a written application, the Returning Officer may, on being satisfied that a ballot paper has been lost or destroyed, supply a duplicate ballot paper to the person to whom the lost or destroyed ballot paper was issued.

(5) An election is not invalid because a person whose name is on the relevant roll of staff or students of the University or the Roll of Convocation did not receive a ballot paper.

**Notice to accompany ballot paper**

18F. With each ballot paper issued in respect of a Council election otherwise than at a polling booth, there must also be issued:

- (a) a notice setting out how the ballot paper is to be completed and specifying the date and time by which ballot papers for that election must reach the Returning Officer; and
- (b) two envelopes, one marked “Ballot Paper” and the other addressed to the Returning Officer on the inside of which must be printed a form of declaration of identity and of entitlement to vote to be signed by the voter.

**Contents of ballot paper**

18G. Each ballot paper must contain the names of the candidates in the order drawn at random by the Returning Officer or by a person appointed by the Returning Officer for the purposes of the election and must be initialled by the Returning Officer or by a person appointed by the Returning Officer.

**Method of voting**

18H. Each voter must mark a vote on the ballot paper by placing the figure “1” in the square opposite the name of the candidate to whom the voter desires to give first preference vote, and may place consecutive figures (commencing with the figure “2”) in the squares opposite the names of the remaining candidates, so as to indicate by numerical sequence, the order of the voter’s preference for them.

**Voting at staff and Convocation elections**

18I. (1) In the case of an election of staff members or Convocation members of the Council, each voter must send or deliver to the Returning Officer the ballot paper enclosed and sealed in the envelope marked “Ballot Paper” which must be enclosed and sealed in another envelope addressed to the Returning Officer, with a form of declaration of identity and entitlement to vote on the inside.

(2) In the case of an election of staff members or Convocation members of the Council, all envelopes received by the Returning Officer under this clause must be deposited in the relevant ballot box.

**Voting at student elections**

18J. (1) Subject to subclauses (2) and (3), in the case of an election of student members of the Council, any student who has been recognised as eligible to vote by a person appointed by the Returning Officer to attend a polling booth and whose name is then marked on a copy of the relevant roll of students of the University to signify the issue of a ballot paper, must be provided with a ballot paper.

(2) A student provided with a ballot paper who desires to vote at a polling booth must, in the presence of a person appointed by the Returning Officer, deposit the vote in the ballot box provided for the purpose at the polling booth.

(3) A student who has been forwarded a ballot paper under clause 18E (2) (c) and who wishes to vote must send or deliver to the Returning Officer the ballot paper enclosed and sealed in an envelope marked "Ballot Paper" which must be enclosed and sealed in another envelope addressed to the Returning Officer, with a form of declaration of identity and entitlement to vote on the inside.

(4) Despite subclause (3), a student referred to in that subclause may vote by depositing the ballot paper forwarded to the student in the ballot box at a polling booth.

**Envelopes and ballot papers not to be opened**

18K. (1) All envelopes received by the Returning Officer under clause 18I or 18J must remain unopened until the close of the ballot.

(2) A ballot box referred to in clause 18I or 18J must remain unopened until the close of the ballot.

**Procedure on close of ballot**

18L. As soon as practicable after the close of the ballot, the Returning Officer or a person appointed by the Returning Officer must:

- (a) open the ballot boxes; and
- (b) open the envelopes addressed to the Returning Officer and received before the time specified under clause 18A (2) (g); and
- (c) if the declaration of identity is duly signed by a qualified voter, place the envelope containing the ballot paper with other similar envelopes; and
- (d) open the envelopes referred to in paragraph (c) and take out the ballot papers; and

(e) count the votes, and ascertain the result of the ballot, in the manner set out in clauses 18M–18Q.

#### **Informal ballot papers**

18M. (1) A ballot paper is informal if it has on it any mark or writing which, in the opinion of the Returning Officer, will enable any person to identify the voter.

(2) Despite any other provision of this clause, a ballot paper is not informal only because any figures placed on the ballot paper are not placed in or entirely in the squares opposite the candidates' names, if the figures are placed on the ballot paper in such positions as, in the opinion of the Returning Officer, clearly indicate the order of the voter's preference for the candidates.

(3) A ballot paper is informal if not initialled under clause 18G.

#### **Nomination of scrutineers**

18N. Each candidate is entitled to nominate one scrutineer, other than the candidate, to be present at the count.

#### **Secrecy of ballot to be maintained**

18O. (1) The result of the count must remain confidential until the declaration of poll by the Returning Officer.

(2) The Returning Officer, any person appointed by the Returning Officer or any scrutineer must not in any way disclose or aid in disclosing in what manner any voter has voted.

#### **Manner of counting votes and ascertaining result of ballot**

18P. In this Division:

**“an absolute majority of votes”** means a greater number than one-half of the whole number of ballot papers counted;

**“continuing candidate”** means a candidate not already excluded from the count;

**“determine by lot”** means determine in accordance with the following directions:

(a) the names of the candidates concerned must be written on separate and similar slips of paper;

(b) the slips must be folded so as to prevent identification and mixed and drawn at random;

(c) the candidate whose name is first drawn must be excluded.

#### **Determination of result of ballot**

18Q. (1) If a ballot has been held for the purpose of an election the result of the ballot must be determined in the following manner.

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(2) The Returning Officer must count the total number of ballot papers and exclude any informal papers.

(3) The Returning Officer must count the number of first preference votes given for each candidate.

(4) The candidate who has received the largest number of first preference votes must, if that number constitutes an absolute majority of votes, be declared by the Returning Officer to be elected.

(5) If no candidate has received an absolute majority of first preference votes, the candidate who has received the fewest first preference votes must be excluded and each of the ballot papers counted to that candidate must be counted to the continuing candidate next in order of the voter's preference.

(6) If on any count two or more candidates have an equal number of votes and one of them has to be excluded, the candidate to be excluded must be determined as follows:

(a) if the count is the first made in connection with the ballot, the Returning Officer must determine by lot which of those candidates is to be excluded;

(b) if the count is the second or subsequent count made in connection with the ballot:

(i) that candidate must be excluded who had the least number of votes at the last count at which one of those candidates received fewer votes than each of the others; or

(ii) the Returning Officer must determine by lot which of those candidates is to be excluded, if at all preceding counts no one of those candidates received fewer votes than each of the others.

(7) The process of excluding the candidate who has the fewest votes and counting each of the ballot papers counted to that candidate to the continuing candidate next in order of the voter's preference must be continued:

(a) until one continuing candidate has an absolute majority of votes and that candidate must be declared by the Returning Officer to be elected; or

(b) until all candidates but one have been excluded and the remaining candidate must be declared elected.

(8) If at any point during any particular count after the first preference votes have been counted, the candidate next in order of a voter's preference is not indicated or cannot be ascertained, that

ballot paper must, from that point onwards, be excluded from that particular count and the total of the ballot papers counted must be amended accordingly. The ballot paper must, however, be reinstated in any later counts carried out in accordance with subclause (9).

(9) If any further position remains to be filled, all excluded candidates must be reinstated with their first preference votes credited and each of the ballot papers counted to the elected candidate or candidates must be counted to the reinstated candidate next in order of the voter's preference as if it were a first preference vote.

(10) The procedures described in subclauses (4) to (9) apply until all vacancies are filled.

(d) by omitting Divisions 2, 3 and 4 of Chapter 6 and by inserting instead the following Division:

## **Division 2—Authorisation of rules**

### **Rules with respect to Academic Board**

47. The Council may make rules for or with respect to the constitution, functions and determination of the membership of the Academic Board.

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DATED this 13th day of September 1994.

*The COMMON SEAL, of the UNIVERSITY OF TECHNOLOGY, SYDNEY, was hereunto affixed by authority of the Council in the presence of:* }

R N JOHNSON  
Chancellor

R D GUTHRIE  
Vice-Chancellor

R M SHAPIRO  
University Secretary

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**EXPLANATORY NOTE**

The object of this By-law is to include provisions in the University of Technology, Sydney, By-law 1990 relating to the conduct and method of election of the elected members of the Council of the University.

This By-law also removes provisions from the 1990 By-law relating to the membership, election and presiding and deputy presiding members of the Academic Board of the University. These matters will be dealt with by rules.

This By-law is made under the University of Technology, Sydney, Act 1989, including section 28 (the general by-law making power) and section 29.

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