



New South Wales

University of Newcastle By-law 1999

under the

University of Newcastle Act 1989

His Excellency the Governor, with the advice of the Executive Council, has approved the following By-law made by the Council of the University of Newcastle under the *University of Newcastle Act 1989*.

JOHN AQUILINA, M.P.,

Minister for Education and Training

Explanatory note

The object of this By-law is to repeal and re-enact the provisions of the *University of Newcastle By-law* under the *University of Newcastle Act 1989* (the **1989 Act**). The new By-law deals with the following matters:

- (a) the elected members of the University Council (Part 2), including in particular:
 - (i) election procedures, returning officers and qualifications for election (Division 1), and
 - (ii) the maintenance of electoral rolls (Division 2), and
 - (iii) the conduct of elections (Division 3), and
 - (iv) terms of office (Division 4),
- (b) the constitution and functions of the Academic Senate (Part 3),
- (c) the constitution and functions of Convocation (Part 4), including in particular:
 - (i) the qualifications for membership of Convocation (Division 1), and
 - (ii) the functions exercisable by Convocation (Division 2), and
 - (iii) the conduct of meetings of Convocation (Division 3),

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- (d) the making of rules by the Council and the Vice-Chancellor (Part 5),
- (e) other matters of a minor, consequential or ancillary nature (Parts 1 and 6).

This By-law is made in connection with the commencement of certain amendments to the 1989 Act by the *University Legislation (Amendment) Act 1994*. These amendments relate to the powers of authorities and officers within the University of Newcastle to make rules under the 1989 Act.

This By-law is made under the *University of Newcastle Act 1989*, including section 28 (the general power to make by-laws) and section 29 (the power to make by-laws concerning the making of rules).

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Part 1 Preliminary

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Part 1 Preliminary

1 Name of By-law

This By-law is the *University of Newcastle By-law 1999*.

2 Commencement

This By-law commences on 1 July 1999.

3 Definitions

In this By-law, and in any rule made under this By-law:

rule means a rule made under this By-law.

Secretary means the Secretary to the University.

the Act means the *University of Newcastle Act 1989*.

4 Notes

The explanatory note and table of contents do not form part of this By-law.

Part 2 Elected members of Council

Division 1 Preliminary

5 Election procedures

Elections for the elected members of the Council are to be conducted by secret ballot using a compulsory preferential system of voting in accordance with this Part.

6 Returning Officer

- (1) Elections for the elected members of the Council are to be conducted by the Secretary who, for that purpose, is referred to in this Part as the *Returning Officer*.
- (2) The Returning Officer may appoint a Deputy Returning Officer and other persons to assist in the conduct of the whole or any part of an election.
- (3) The decision of the Returning Officer on all matters affecting the eligibility of candidates and the conduct and results of an election is final.

7 Qualifications of elected members

- (1) A person referred to in section 9 (5) (a) of the Act has the prescribed qualifications in relation to an election if, as at the close of nominations for that election, the person's name is enrolled in the Roll of Academic Staff.
- (2) A person referred to in section 9 (5) (b) of the Act has the prescribed qualifications in relation to an election if, as at the close of nominations for that election, the person's name is enrolled in the Roll of General Staff.
- (3) A person referred to in section 9 (5) (c) of the Act has the prescribed qualifications in relation to an election if, as at the close of nominations for that election, the person's name is enrolled in the Roll of Students in relation to a course of studies that leads to a degree or diploma of the University.

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Part 2 Elected members of Council
Division 1

- (4) A person referred to in section 9 (5) (d) of the Act has the prescribed qualifications in relation to an election if, as at the close of nominations for that election, the person's name is enrolled in the Roll of Convocation Electors.

Division 2 Rolls

8 Returning officer to keep rolls

The Returning Officer must keep:

- (a) a Roll of Academic Staff, containing the names and addresses of all persons who are for the time being members of the academic staff of the University, and
- (b) a Roll of General Staff, containing the names and addresses of all persons who are for the time being members of the non-academic staff of the University, and
- (c) a Roll of Students, containing the names and addresses of all persons who are for the time being students of the University, and
- (d) a Roll of Convocation Electors, containing the names and addresses of:
 - (i) all persons who have become members of Convocation on or after 1 January of the current year, and
 - (ii) all persons who, having become members of Convocation before 1 January of the current year, applied between 1 November and 31 December in the previous year to be enrolled on the Roll.

9 Rolls of Academic Staff, General Staff and Students

The Roll of Academic Staff, the Roll of General Staff and the Roll of Students are each to be maintained on a day-to-day basis.

10 Roll of Convocation Electors

- (1) As soon as practicable after 1 November (and before 7 November) in each year, the Returning Officer must cause a

notice stating that a review of the Roll of Convocation Electors is being conducted, and that any member of Convocation may apply for enrolment in the Roll:

- (a) to be sent to each person whose name is enrolled in the current Roll of Convocation Electors, and
 - (b) to be published, on at least two occasions, in a newspaper circulating throughout Australia, and
 - (c) to be displayed on, or on a page that is linked to, the University Home Page on the World Wide Web.
- (2) The name and address of each member of Convocation who, between 1 November and 31 December in any year, lodges a written application for enrolment with the Returning Officer is to be enrolled in the Roll of Convocation Electors for the following year.
- (3) The Roll of Convocation Electors for the period between 1 July 1999 and 31 December 1999 is to contain the names and addresses of:
- (a) all persons who were members of Convocation immediately before 1 July 1999, and
 - (b) all persons who, during that period, become graduates of the University.

11 Rolls generally

- (1) A copy of each Roll is to be available for inspection in the Returning Officer's office at the University during usual working hours.
- (2) An election is not invalid because of an error or omission in the recording of a name in a Roll.

Division 3 Conduct of elections

12 Publication of notices

- (1) When an election is necessary, the Returning Officer is to publish notice of that fact:
 - (a) in the case of an election for a member referred to in section 9 (5) (a), (b) or (c) of the Act:
 - (i) on appropriate notice boards at the University, and

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Part 2 Elected members of Council
Division 3

- (ii) in at least one daily newspaper published and circulating in Newcastle, and
 - (iii) on, or on a page that is linked to, the University Home Page on the World Wide Web, and
 - (b) in the case of an election for a member referred to in section 9 (5) (d) of the Act:
 - (i) in at least one newspaper published in Sydney and circulating throughout the State, and
 - (ii) in at least one daily newspaper published and circulating in Newcastle, and
 - (iii) on, or on a page that is linked to, the University Home Page on the World Wide Web.
- (2) The notice:
 - (a) must indicate the number of members to be elected, and
 - (b) must invite nominations of candidates for election, and
 - (c) must fix a date and time for the close of nominations for the election (that is, the date and time by which nomination papers must reach the Returning Officer), and
 - (d) must fix a date and time for the close of voting in the election (that is, the date and time by which completed voting papers must reach the Returning Officer).
- (3) In fixing the dates referred to in the notice, the Returning Officer must ensure that:
 - (a) there are not less than 14 days nor more than 30 days between the publication of the notice and the close of nominations, and
 - (b) there are not more than 28 days between the close of nominations and the issue of voting papers, and
 - (c) there are not less than 14 days nor more than 60 days between the issue of voting papers and the close of voting.

13 Nomination of candidates

- (1) A person may be nominated for election only in accordance with this clause.
- (2) A separate nomination form must be completed for each candidate and must be lodged with the Returning Officer before the close of nominations.

- (3) A nomination form:
 - (a) must be signed by two people who are each entitled to vote at the election concerned, and
 - (b) must be endorsed with, or accompanied by, the written consent of the nominee.
- (4) A candidate may provide to the Returning Officer a passport-size personal photograph and a written statement about the candidate of not more than 150 words.
- (5) The Returning Officer:
 - (a) may edit the statement for length, and
 - (b) after obtaining the consent of the candidate to any amendments, must arrange for the statement to be printed with any accompanying photograph.
- (6) The Returning Officer must reject a nomination form if it does not comply with this clause or if the candidate is not eligible for election.
- (7) The Returning Officer must give written notice to each candidate:
 - (a) of the fact that his or her nomination form has been rejected, or
 - (b) of the fact that the candidate has been duly nominated, as the case requires.

14 Procedure at close of nominations

- (1) If, at the close of nominations, the number of candidates is the same as or less than the number of vacancies to be filled, the Returning Officer must declare the candidate or candidates to be elected.
- (2) If, at the close of nominations, the number of candidates is more than the number of vacancies to be filled, the Returning Officer must conduct a ballot to fill the vacancies.

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Part 2 Elected members of Council

Division 3

15 Voting papers

- (1) All voting papers must specify the names of all the candidates.
- (2) The Returning Officer must arrange for the order in which those names are to appear on voting papers to be decided by lot.
- (3) The Returning Officer must ensure that a voting paper is sent to each person who is entitled to vote in the election concerned.
- (4) A voting paper is to be accompanied by the following documents:
 - (a) a notice setting out how the voting paper is to be completed and specifying the date and time by which the voting paper must reach the Returning Officer,
 - (b) two envelopes, one marked "Voting Paper Only" and the other addressed to the Returning Officer,
 - (c) a form of declaration of identity and of entitlement to vote, which may be printed on the reverse of the envelope addressed to the Returning Officer,
 - (d) any statements (as amended by the Returning Officer) and photographs that have been submitted by the candidates in relation to their nominations.
- (5) A person whose voting paper becomes lost or destroyed may apply to the Returning Officer for a duplicate voting paper because of that fact and, if satisfied of the truth of the application, the Returning Officer must supply a duplicate voting paper to the applicant.
- (6) An election is not invalid because of an error or omission in the distribution of voting papers.

16 Voting conduct

- (1) An elector must cast a vote by placing the number "1" opposite the name of the candidate to whom the elector wishes to give the elector's first preference vote.

- (2) The elector must then give contingent votes to the remaining candidates (by placing the numbers “2”, “3”, “4”, and so on, opposite the names of all the other candidates) so as to indicate unambiguously the order of the elector’s preferences for them.
- (3) The elector:
 - (a) must place the completed voting paper in the envelope marked “Voting Paper Only”, and
 - (b) must seal the envelope and enclose it in the envelope addressed to the Returning Officer, together with the completed personal declaration, if that declaration is on a separate piece of paper, and
 - (c) if necessary, must complete the personal declaration printed on the reverse of the envelope addressed to the Returning Officer, and
 - (d) must send or deliver to the Returning Officer the envelope so addressed so as to ensure that the Returning Officer will receive it before the close of voting.

17 Acceptance of voting papers

The Returning Officer must reject a voting paper if satisfied that:

- (a) it has been received after the close of voting, or
- (b) it has been cast by a person who is not entitled to vote at the election or who has already voted at the election, or
- (c) it does not comply with the requirements of this Division.

18 Scrutineers

Each candidate is entitled to nominate in writing to the Returning Officer one scrutineer to be present at the count.

19 Non-disclosure

Neither the Returning Officer or any person appointed by the Returning Officer, nor any scrutineer, must in any way disclose or aid in disclosing in what manner any voter has voted.

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Part 2 Elected members of Council

Division 3

20 Scrutiny of votes

The Returning Officer, in the presence of such of the scrutineers as choose to be present:

- (a) must examine the voting papers, and
- (b) must reject as informal those that, in the opinion of the Returning Officer, do not comply with the requirements of this Division, and
- (c) must proceed to count the remaining votes with the assistance of such persons as the Returning Officer may appoint for the purpose.

21 Determination of result where only one candidate to be elected

- (1) The result in an election where only one candidate is to be elected is to be determined in accordance with this clause.
- (2) The total number of first preference votes given to each candidate must be counted.
- (3) If one of the candidates has an absolute majority of votes, that candidate is to be declared to be elected.
- (4) If no candidate has an absolute majority of votes:
 - (a) the candidate who has the fewest votes is to be excluded, and
 - (b) the voting papers allocated to the excluded candidate are to be reallocated to the remaining candidates next in order of the electors' preferences for them.
- (5) The procedures under this clause are to be repeated until one of the remaining candidates has an absolute majority of votes, in which case that candidate is to be declared to be elected.
- (6) If, after any count, two or more remaining candidates have equal numbers of votes and one of them must be excluded, the Returning Officer must determine by lot which of them is to be excluded.
- (7) However, if there are only two remaining candidates and they each have equal numbers of votes, the Returning Officer must determine by lot which of them is to be elected.

- (8) In this clause, *absolute majority of votes* means a number greater than one half of the total number of voting papers counted.

22 Determination of result where more than one candidate to be elected

- (1) The result in an election where more than one candidate is to be elected is to be determined in accordance with this clause.
- (2) The total number of first preference votes given to each candidate must be counted and the candidate who has the fewest votes must be excluded.
- (3) If the number of remaining candidates is equal to the number of candidates to be elected, the Returning Officer must declare each of the remaining candidates to be elected.
- (4) If the number of remaining candidates is greater than the number of candidates to be elected, the voting papers allocated to the excluded candidate are to be reallocated to the remaining candidates next in order of the electors' preferences for them.
- (5) The procedures under this clause are to be repeated until the number of remaining candidates is equal to the number of candidates to be elected.
- (6) If, after any count, two or more remaining candidates have equal numbers of votes and one of them must be excluded, the Returning Officer must determine by lot which of them is to be excluded.
- (7) In this clause, *absolute majority of votes* means a number greater than one half of the total number of voting papers counted.

23 Determination by lot

- (1) If the ordering of candidates on a voting paper, or the exclusion or election of a candidate, has to be determined by lot, the determination is to be made in the following manner:
 - (a) the names of the candidates in respect of whom the determination is to be made are to be written on similar slips of paper, and

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- (b) the slips of paper are to be folded so as to hide the names written on them, and
 - (c) the slips of paper are to be mixed together, and
 - (d) the slips of paper are to be drawn at random.
- (2) In the case of a determination by which candidates are to be ordered on a voting paper, the candidates are to be listed in the order in which their names are drawn.
- (3) In the case of a determination by which a candidate is to be excluded, the candidate whose name is drawn first is to be excluded.
- (4) In the case of a determination by which a candidate is to be declared elected, the candidate whose name is drawn first is to be declared elected.

Division 4 Terms of office

24 Term of office of elected members

- (1) For the purposes of clause 1 of Schedule 1 to the Act:
- (a) the prescribed term of office for a member of the Council referred to in section 9 (5) (a) of the Act is 2 years, and
 - (b) the prescribed term of office for a member of the Council referred to in section 9 (5) (b) of the Act is 2 years, and
 - (c) the prescribed term of office for a member of the Council referred to in section 9 (5) (c) of the Act is 1 year, and
 - (d) the prescribed term of office for a member of the Council referred to in section 9 (5) (d) of the Act is 3 years.
- (2) Despite subclause (1), a member elected to fill a casual vacancy in the office of an elected member of the Council holds office for the unexpired portion of his or her predecessor's term of office.

25 Casual vacancies generally

- (1) If a casual vacancy in the office of a member of the Council referred to in section 9 (5) (a), (b), (c) or (d) of the Act occurs with less than a quarter of the term of that office remaining, the Council is to appoint a qualified person to fill the vacancy.
- (2) A member appointed to fill a casual vacancy under this clause holds office for the unexpired portion of his or her predecessor's term of office.

26 Casual vacancy of Convocation member during first year of office

- (1) If a casual vacancy in the office of a member of the Council referred to in section 9 (5) (d) of the Act occurs within the first 12 months of the term of that office, the vacancy is to be filled by the candidate, if any, who in the election for that office received the greatest number of votes of the candidates who were not elected.
- (2) The procedure referred to in subclause (1) must not be used to fill more than 2 vacancies arising within the first 12 months of the term of office.
- (3) A member appointed to fill a casual vacancy under this clause holds office for the unexpired portion of his or her predecessor's term of office.

Part 3 The Academic Senate

27 President and Deputy President of Academic Senate

- (1) The full-time members of the academic staff of the University are to elect a President and Deputy President of the Academic Senate in accordance with the rules.
- (2) The President (or, in the absence of the President, the Deputy President) of the Academic Senate is to preside at meetings of the Academic Senate.
- (3) In the absence of both the President and Deputy President of the Academic Senate, the person to preside at a meeting of the Academic Senate is to be a member of the Academic Senate appointed by the members present and voting at that meeting.
- (4) Despite subclauses (2) and (3), the Vice-Chancellor is entitled (but not obliged) to preside at any meeting of the Academic Senate at which the Vice-Chancellor is present.

28 Functions of Academic Senate

The Academic Senate is the principal academic body in the University, and has the following functions:

- (a) to advise the Council on matters concerning the academic activities of the University,
- (b) to consider, and report to the Council on, any matter referred to it by the Council,
- (c) to refer matters to any faculty, school, board or other body within the University for consideration and report,
- (d) to consider, and report to the Council on, any proposal concerning teaching, scholarship or research that is made by any faculty, school, board or other body within the University,
- (e) to determine, after consultation with each of the faculties, schools, boards or other bodies concerned, any matter concerning any course of study or examination that is not solely within the province of any single faculty, school, board or other body,

- (f) to consider, and report to the Council or to any other body within the University on, any matter affecting the policies and activities of the University or of any such body,
- (g) to exercise such other functions as may be conferred or imposed on the Academic Senate by the rules.

29 Reference to Council of certain matters by Academic Senate

- (1) If:
 - (a) the Academic Senate does not approve without amendment any proposal concerning teaching, scholarship or research that is made by a faculty, school, board or other body within the University, and
 - (b) the faculty, school, board or other body so requests,the Academic Senate must transmit the original proposal to the Council, together with the Academic Senate's recommendations with respect to the proposal.
- (2) If the Council does not accept without amendment any recommendation of the Academic Senate with respect to the proposal, the Council must not make a final decision in the matter without further consultation with the Academic Senate.
- (3) This clause does not apply if, in the judgment of the Chancellor:
 - (a) the matter is one of urgency in which it is necessary for an immediate decision to be made by the Council, or
 - (b) the area of difference between the Council and the Academic Senate is not one of principle or major significance.

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Part 4 Convocation
Division 1

Part 4 Convocation

Division 1 Membership

30 Non-academic members of staff

For the purposes of section 14 (1) (c) of the Act, Convocation includes any full-time or part-time non-academic member of staff of the University who holds:

- (a) a degree, diploma or award recognised by the rules, being a degree, diploma or award conferred or awarded by some other university or other institute of tertiary education, or
- (b) a professional qualification recognised by the rules as being equivalent to such a degree, diploma or award.

31 Past members of staff

For the purposes of section 14 (1) (d) of the Act, Convocation includes:

- (a) any person who has retired from employment with the University after having been a member of Convocation by virtue of section 14 (1) (c) of the Act for 5 years or more, and
- (b) any professor emeritus of the University, regardless of the length of time for which he or she has been a member of staff of the University, and
- (c) any person who holds a degree, diploma or award recognised by the rules, being a degree, diploma or award conferred or awarded by some other university, and
- (d) any person:
 - (i) who holds a degree, diploma, award or certificate recognised by the rules, being a degree, diploma, award or certificate conferred or awarded by an institute of tertiary education other than a university, and
 - (ii) who resides in the Hunter region, the Central Coast or surrounding areas, and

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- (e) any person:
- (i) who is a graduate of the University of New England (within the meaning of the *University of New England Act 1989*) or a graduate of the University of New South Wales (within the meaning of the *University of New South Wales Act 1989*), and
 - (ii) who has for at least 3 years been enrolled as a student of the Newcastle University College, and
- (f) any person on whom the University, or any institution referred to in section 3 (2) (b) or (c) of the Act, has conferred an honorary award, and
- (g) any other person who is qualified for membership of Convocation in accordance with the rules.

32 Register of members of Convocation

The Secretary is to keep a Register of Convocation containing the names and last known addresses of all persons who are members of Convocation.

Division 2 Functions

33 Functions

Convocation has the following functions:

- (a) to elect a Warden to preside at its meetings,
- (b) to discuss and pronounce an opinion on any matter relating to the University, including any matter referred to it by the Council or by a Standing Committee or other committee of Convocation,
- (c) to advise the Council or Academic Senate on any matter relating to the University, including any matter referred to it by the Council or by a Standing Committee or other committee of Convocation,

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Division 2

- (d) to refer matters for advice and report to a Standing Committee or other committee of Convocation,
- (e) such other functions as may be conferred or imposed on Convocation by the rules.

Division 3 Meetings

34 Meetings of Convocation

Convocation is to meet at least once in every year.

35 Convening of meetings

The Warden of Convocation:

- (a) may convene a meeting of Convocation at any time, and
- (b) must convene a meeting of Convocation if so required by one per cent or more of the members of Convocation whose names and addresses are contained in the Register of Convocation.

36 Notice of meetings

- (1) The Warden of Convocation must give at least 21 days' notice of any meeting of Convocation.
- (2) Notice may be given if the information is published in at least one daily newspaper circulating nationally and one daily newspaper circulating in Newcastle.
- (3) The notice must include information as to how details of the business to be transacted at the meeting can be obtained.

37 Quorum

A quorum at any meeting of Convocation is 15 members.

Part 5 Rules

38 Making of rules by Council and Vice-Chancellor

- (1) Rules (not inconsistent with the Act or this By-law) may be made:
 - (a) by the Council, or
 - (b) if the rules made by the Council so provide, by the Vice-Chancellor,

for or with respect to any or all matters for or with respect to which by-laws may be made under the Act, except the matters referred to in sections 3 (2), 9 (5), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) of the Act and clauses 1 (d) and (e) and 3 of Schedule 1 to the Act.

- (2) 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 to the extent of the inconsistency.

39 Publication of rules

- (1) A rule made by the Council or by the Vice-Chancellor must be published by means of a notice displayed on an official notice board of the University.
- (2) A copy of the rule must also be displayed on, or on a page that is linked to, the University Home Page on the World Wide Web.
- (3) Information concerning the making of the rule, and as to how details of the rule can be obtained, must be published in an appropriate University publication as soon as possible after the rule is made.

40 Inspection of rules

Copies of each rule made by the Council or the Vice-Chancellor are to be made available for inspection at the Secretary's office at the University during usual working hours.

41 Rescission of rules

Sections 28, 29 and 30 of the *Interpretation Act 1987* apply to the rescission of a rule within the meaning of this By-law in the same way as they apply to the revocation of a statutory rule within the meaning of that Act.

Part 6 Miscellaneous

42 Designation of academic staff, non-academic staff, full-time staff and part-time staff

For the purposes of the Act and this By-law, the members of staff of the University are classified as follows:

- (a) members of staff are designated as academic staff if their duties include teaching or research,
- (b) members of staff are designated as non-academic staff if their duties do not include teaching or research,
- (c) members of staff are designated as full-time members of staff:
 - (i) if their terms of employment expressly state that they are employed on a full-time basis, or
 - (ii) where their terms of employment are silent on the matter, if they are employed on terms identified by the Secretary as terms of full-time employment,
- (d) members of staff are designated as part-time members of staff:
 - (i) if their terms of employment expressly state that they are employed on a part-time basis, or
 - (ii) where their terms of employment are silent on the matter, if they are employed on terms identified by the Secretary as terms of part-time employment.

43 Graduates of University

For the purposes of section 3 (2) of the Act, the prescribed awards and certificates are:

- (a) an award received on completion at the Hunter Institute of Higher Education (or any of its predecessors) of an advanced education course, and
- (b) a Teacher's Certificate awarded after the successful completion of the academic requirements of any predecessor of the Hunter Institute of Higher Education, and

- (c) any award or certificate that, in the opinion of the Council, is equivalent to an award or certificate referred to in paragraph (a) or (b), being an award or certificate that has been received by a person as a result of enrolment at the National Art School in Newcastle or the Newcastle Branch of the New South Wales Conservatorium of Music.

44 Term of office of Chancellor

For the purposes of section 10 (2) of the Act, the term for which the Chancellor is to hold office is 4 years.

45 Service of documents

Any notice or other document that is authorised or required to be served on a person by this By-law or a rule may be served in any one of the following ways:

- (a) by delivering it to the person personally,
- (b) if the person is resident at or has an office at the University, by forwarding it to the person through the internal mail of the University,
- (c) by sending it by post to the person's address, as last known to the Secretary.

46 Custody and use of University seal

The seal of the University is to be kept in the custody of the Secretary and may be affixed only:

- (a) in the presence of:
 - (i) the Chancellor, the Deputy Chancellor, the Vice-Chancellor or a Deputy Vice-Chancellor, and
 - (ii) the Secretary, and
- (b) with an attestation by the signature of each person in whose presence it is affixed of the fact of the affixing of the seal.

47 Repeal

- (1) The *University of Newcastle By-law* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *University of Newcastle By-law*, had effect under that By-law continues to have effect under this By-law.