



New South Wales

Charles Sturt University By-law 2005

under the

Charles Sturt University Act 1989

Her Excellency the Governor, with the advice of the Executive Council, and in pursuance of the *Charles Sturt University Act 1989*, has approved the following By-law made by the Council of Charles Sturt University.

CARMEL TEBBUTT, M.P.,
Minister for Education and Training

Explanatory note

The object of this By-law is to repeal and remake the *Charles Sturt University By-law 1995*. This By-law deals with the following matters:

- (a) certain official members of the Council of Charles Sturt University (*the Council*) (Part 2),
- (b) the election and appointment of members of the Council (Part 3),
- (c) meetings of the Council (Part 4),
- (d) the constitution and functions of the Academic Senate of Charles Sturt University (Part 5),
- (e) the making of rules (Part 6),
- (f) the conferring of honorary awards (clause 115),
- (g) other minor, miscellaneous matters (Parts 1 and 7).

This By-law is made under the *Charles Sturt University Act 1989*, including section 31 (the general power to make by-laws).

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Charles Sturt University By-law 2005

under the

Charles Sturt University Act 1989

Part 1 Preliminary

1 Name of By-law

This By-law is the *Charles Sturt University By-law 2005*.

2 Definitions

(1) In this By-law:

Academic Senate means the Academic Senate of the University established under section 16 of the Act.

associate of a person means any of the following:

- (a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the person,
- (b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the person,
- (c) any other person who is known to the person for reasons other than the person's connection with the University or that person's public reputation.

casual vacancy in an office means a vacancy that occurs in that office otherwise than because of the expiration of the term of office of the person holding the office.

close of applications, in relation to an appointment, means the date and time determined by the Secretary by which applications must be received by the Secretary for the appointment.

close of nominations, in relation to an election, means the date and time determined by the returning officer by which nominations must be received by the returning officer for the election.

close of the ballot, in relation to an election, means the date and time determined by the returning officer by which ballot papers must be received by the returning officer for the election.

committee of the Council means a committee established by the Council under clause 4 of Schedule 1 to the Act.

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Clause 3 Charles Sturt University By-law 2005

Part 1 Preliminary

Council Nominations Committee means the committee established by the Council under clause 21.

elected member means a person elected to the Council under section 9 (1) (d), (e) or (f) of the Act.

election:

- (a) in Part 2—means an election under section 10 or 11 of the Act, or
- (b) in Part 3—means an election under section 9 (1) (d), (e) or (f) of the Act.

external person has the same meaning as in section 9 (10) of the Act.

Note. Section 9 (10) of the Act provides that a reference to external persons is a reference to persons who are not members of the academic or general staff of the University or undergraduate or postgraduate students of the University.

notice means notice in writing.

polling day means:

- (a) in the case of an election conducted by postal ballot—the close of the ballot, and
- (b) in the case of an on-campus election—the date on which the ballot is held as determined by the returning officer.

returning officer, in relation to a particular function of the returning officer, includes a deputy returning officer, poll officer or other person who is authorised or directed by the returning officer to exercise that function.

Secretary means the Secretary to the Council appointed under clause 19.

the Act means the *Charles Sturt University Act 1989*.

- (2) In this By-law, a reference to an authority, officer or office is to be construed as a reference to that authority, officer or office in and of the University.
- (3) 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.
- (4) Notes included in this By-law do not form part of this By-law.

3 Definition of “graduate”: section 3 (2)

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

- (a) a graduate certificate, associate degree, or award honoris causa conferred by the Council,

-
- (b) a certificate conferred on completion of a course of studies conducted by the Riverina-Murray Institute of Higher Education (or any of its predecessors),
 - (c) a certificate conferred on completion of a course of studies conducted by the Mitchell College of Advanced Education (or any of its predecessors),
 - (d) any other award conferred by the Riverina-Murray Institute of Higher Education or the Mitchell College of Advanced Education (or any of their predecessors) that, in the opinion of the Council, is equivalent to a degree or diploma, or to a certificate, from an institution referred to in paragraphs (a)–(c).

Note. By virtue of section 3 (2) of the Act, a reference to a graduate is a reference to a person who has received a degree, diploma or other award or certificate as prescribed by the by-laws conferred or awarded by the University, by or on behalf of any former institution that has become a network member of, or a part of, the University or by any predecessor of any such institution.

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Part 2 Official members of Council

Part 2 Official members of Council

Division 1 Election of Chancellor and Deputy Chancellor

4 Returning officer

- (1) The Secretary is the returning officer for all elections of the Chancellor or Deputy Chancellor.
- (2) The returning officer may, subject to the Act and this By-law, decide all matters relating to the procedure for the conduct of an election under this Division.
- (3) Subject to the Act and this By-law, a decision of the returning officer relating to an election under this Division, including a decision relating to the eligibility of a candidate or a voter, the conduct of the election or the result of an election, is final.
- (4) The returning officer is entitled to attend meetings of the Council for the purpose of conducting an election under this Division.

5 Timing of election

An election to fill a vacancy in the office of Chancellor or Deputy Chancellor is to be held (where practicable):

- (a) in the case of a vacancy that arises because of the expiration of the term of office of the current office holder—at least 3 months before the expiration of the term of office of the current office holder, or
- (b) in the case of a casual vacancy—within 3 months after the vacancy arises.

6 Notice of election

The returning officer must give to each member of the Council at least 1 month's notice of an election to fill a vacancy in the office of Chancellor or Deputy Chancellor.

7 Nominations for election as Chancellor or Deputy Chancellor

A nomination for election as Chancellor or Deputy Chancellor:

- (a) must be in writing, and
- (b) must be signed by the nominee and 2 other members of the Council, and
- (c) must be delivered to the returning officer before the meeting of the Council at which the election is to be held.

8 Election to be held at meeting of Council

An election to fill a vacancy in the office of Chancellor or Deputy Chancellor is to be held at a meeting of the Council.

9 Returning officer to preside at meeting

- (1) The returning officer is to preside during any part of a meeting of the Council at which an election of the Chancellor or Deputy Chancellor is to be held.
- (2) No business other than the election of the Chancellor or Deputy Chancellor may be conducted at a meeting of the Council while the returning officer is presiding.

10 Contested and uncontested elections

- (1) If there is only 1 nomination for election of the Chancellor or Deputy Chancellor, the returning officer must declare the nominated candidate to be elected.
- (2) If there are 2 or more nominations for election of the Chancellor or Deputy Chancellor, the returning officer must conduct a poll of members of the Council by secret ballot.

11 Procedure for electing Chancellor or Deputy Chancellor

At a poll for the election of the Chancellor or Deputy Chancellor, each member of the Council is entitled to cast a vote for 1 of the candidates only.

12 Determining count

- (1) When the poll is finished, the returning officer must count the number of votes cast at the poll for each candidate.
- (2) If 1 candidate has received more votes than any other, the returning officer must declare that candidate to be elected.
- (3) If 2 or more candidates receive an equal number of votes cast at the poll and no other candidate receives more votes than those candidates, the returning officer must conduct a further poll.

13 Conduct of further poll

- (1) A further poll is to be conducted by secret ballot.
- (2) At a further poll each member of the Council is entitled to vote for 1 of the candidates who received an equal number of votes at the original poll.

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Part 2 Official members of Council

- (3) The returning officer must count the number of votes cast for each candidate at the further poll and, if 1 candidate has received more votes than any other, the returning officer must declare that candidate to be elected.
- (4) If 2 or more candidates receive an equal number of votes cast at the further poll, and no other candidate receives more votes at the further poll, the returning officer must decide by lot which of the candidates with an equal number of votes is to be declared elected. For that purpose, the returning officer:
 - (a) must write the names of the candidates concerned on similar slips of paper, and
 - (b) must fold the slips so as to prevent identification, and
 - (c) must mix the slips and draw 1 of them at random.
- (5) The candidate whose name is drawn first following the procedure under subclause (4) is to be declared elected.

14 Order in which elections for Chancellor and Deputy Chancellor are to be held

The election of the Chancellor is to be held first if both the Chancellor and the Deputy Chancellor are to be elected at the same meeting of the Council.

Division 2 Other provisions about official members

15 Term of office of Chancellor: section 10 (2)

For the purposes of section 10 (2) of the Act, the prescribed term of office of the Chancellor is as follows:

- (a) in the case of a person elected to fill a vacancy in the office of Chancellor that arises because of the expiration of the term of office of the previous Chancellor—4 years commencing on 1 January next following the election of the person,
- (b) in the case of a casual vacancy—the balance of the term of office of the previous Chancellor.

Note. Section 10 of the Act requires the Council to elect a person as Chancellor. A person may be elected to the office of Chancellor under that section whether or not the person is a member of the Council.

Section 10 (2) of the Act states that the Chancellor holds office for a period (not exceeding 4 years) prescribed by the by-laws.

Section 29 of the Act states that a person may be re-appointed or re-elected to the office of Chancellor if the person is eligible and otherwise qualified to hold that office (subject to clause 1 (3) of Schedule 1 to the Act, which provides that, generally, a person must not be appointed or elected to serve more than 12 consecutive years of office).

16 Appointment of acting Deputy Chancellor

The Council may appoint a member of the Council to act in the place of the Deputy Chancellor during the absence or inability of the Deputy Chancellor to act, or a vacancy in the office of the Deputy Chancellor.

Note. Section 11 (1) of the Act requires the Council to elect 1 of its members as Deputy Chancellor of the University.

Section 11 (2) of the Act states that the Deputy Chancellor holds office for a period of 2 years.

Section 29 of the Act states that a person may be re-appointed or re-elected to the office of Deputy Chancellor if the person is eligible and otherwise qualified to hold that office (subject to clause 1 (3) of Schedule 1 to the Act, which provides that, generally, a person must not be appointed or elected to serve more than 12 consecutive years of office).

Clause 7 (2) of Schedule 1 to the Act provides that in the absence of both the Chancellor and the Deputy Chancellor from a meeting, a member elected by and from the members present is to preside.

17 Vice-Chancellor: section 12 (3)

- (1) For the purposes of sections 12 (3) and 31 (1) (j) of the Act, the Vice-Chancellor has the following functions:
 - (a) responsibility to the Council for the day-to-day management of the University and, in particular, for:
 - (i) the academic, administrative, financial and other business of the University, and
 - (ii) the general supervision of all persons in the service of the University, and
 - (iii) the welfare and discipline of the students of the University,
 - (b) promoting the interests of the University,
 - (c) furthering the development of the University.
- (2) The Vice-Chancellor has such authority as may be necessary or convenient to give effect to the provisions of the Act, this By-law and the rules and resolutions of the Council.
- (3) The Vice-Chancellor may, without specific appointment, exercise the right of membership of any committee of the University (other than a committee of the Council) and may, if he or she wishes to do so, preside at any meeting of such a committee at which the Chancellor or Deputy Chancellor is not presiding.
- (4) Nothing in this clause affects the precedence or authority of the Chancellor or Deputy Chancellor.

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- (5) The functions conferred or imposed on the Vice-Chancellor by this By-law are in addition to any functions conferred or imposed on the Vice-Chancellor by the Act.

Note. Section 12 of the Act requires the Council to appoint a person as Vice-Chancellor, who has such functions as are conferred or imposed on the Vice-Chancellor by or under the Act or any other Act.

18 Appointment of acting Vice-Chancellor

- (1) The Vice-Chancellor may, with the consent of the Chancellor, appoint a member of the staff of the University as acting Vice-Chancellor during an approved absence of the Vice-Chancellor.
- (2) The Council may appoint a person to act in the place of the Vice-Chancellor during the absence (other than an approved absence) of the Vice-Chancellor or the inability of the Vice-Chancellor to act, or a vacancy in the office of the Vice-Chancellor.
- (3) In this clause:
approved absence means a period of leave approved by the Chancellor or the Council.

19 Secretary to Council

- (1) There is to be a Secretary to the Council appointed by the Council.
- (2) The Secretary has such functions and authorities as are conferred or imposed on the Secretary by this By-law or by a rule or a resolution of the Council.
- (3) The Secretary is subject to the same duties as members of the Council under Schedule 3 to the Act. That Schedule applies to the Secretary as if a reference to a member were a reference to the Secretary.
- (4) The Secretary may be removed from office by the Council for breach of duty.
- (5) The Secretary may, with the approval of the Chancellor, appoint an officer or officers of the University to assist in the performance of any of his or her functions.

20 Appointment of acting Secretary

The Vice-Chancellor may, with the consent of the Chancellor, appoint a member of the staff of the University to act in the place of the Secretary during the absence or inability of the Secretary to act, or a vacancy in the office of the Secretary.

Part 3 Election and appointment of members of Council

Note. Section 9 (1) of the Act provides that the Council is to consist of:

- (a) 3 official members, 1 of whom (the Chancellor) is to be elected by the Council (sections 9 (1) (a) (i) and 10 (1)), 1 of whom (the Vice-Chancellor) is to be appointed by the Council (sections 9 (1) (a) (ii) and 12) and the third of whom is to be the presiding member of the Academic Senate (section 9 (1) (a) (iii)), and
- (b) 6 external persons appointed by the Minister (section 9 (1) (b)), and
- (c) 1 or more external persons (as prescribed) appointed by the Council (section 9 (1) (c)), and
- (d) 2 members of the academic staff of the University, elected by the academic staff of the University (section 9 (1) (d)), and
- (e) 1 member of the general staff of the University, elected by the general staff of the University (section 9 (1) (e)), and
- (f) 2 students of the University, elected by students of the University (section 9 (1) (f)), and
- (g) 1 or more external persons who are graduates of the University (as prescribed) elected by graduates or appointed by the Council (section 9 (1) (g)).

This Part provides for the election and appointment of those persons referred to in section 9 (1) (c)–(g) of the Act.

Division 1 Council Nominations Committee

Note. This Division provides for the establishment of a Council Nominations Committee to make recommendations on the nomination of persons eligible for appointment to the Council under section 9 (1) (b) of the Act (external persons appointed by the Minister), under section 9 (1) (c) of the Act (external persons appointed by the Council) or under section 9 (1) (g) of the Act (graduates appointed by the Council).

21 Council Nominations Committee

- (1) The Council is to establish a Council Nominations Committee.
- (2) The Council Nominations Committee is to consist of:
 - (a) the Chancellor, who is to be the Chair, and
 - (b) the Deputy Chancellor, who is to be the Deputy Chair, and
 - (c) the Vice-Chancellor, and
 - (d) 2 external persons who are members of the Council, selected by the Council.

22 Functions of Council Nominations Committee

- (1) The principal functions of the Council Nominations Committee are:
 - (a) to make recommendations to the Council in relation to the nomination of candidates to the Minister for his or her consideration for appointment under section 9 (1) (b) of the Act, and

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Part 3 Election and appointment of members of Council

- (b) to make recommendations to the Council of candidates for its consideration for appointment under section 9 (1) (c) or (g) of the Act.
- (2) The Council may confer or impose on the Council Nominations Committee such other functions as may be necessary or convenient to assist the Council in the exercise of its principal functions.

23 Avoidance of conflicts

A member of the Council Nominations Committee:

- (a) must not be present during any deliberations of the Committee, or the Council, with respect to his or her own re-appointment to the Council, and
- (b) must not take part in any decision of the Committee or Council with respect to his or her own appointment or re-appointment to the Council.

Division 2 Nomination of external persons for appointment by the Minister: section 9 (1) (b)

Note. This Division provides for the nomination of persons for consideration for appointment by the Minister of 6 external persons as members of the Council under section 9 (1) (b) of the Act, after eligible persons have been nominated to the Minister for his or her consideration for appointment. Those persons are nominated by the Council on the recommendation of the Council Nominations Committee.

Clause 1 (1) (b) of Schedule 1 to the Act provides that a member of the Council appointed under section 9 (1) (b) holds office for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment.

24 Timing of Council Nominations Committee's search for potential nominees

- (1) At least 3 months before a vacancy under section 9 (1) (b) of the Act is expected to occur, the Council Nominations Committee is to conduct a search for external persons suitable for recommendation to the Council for nomination to the Minister for his or her consideration for appointment.
- (2) However, if:
 - (a) a casual vacancy arises under section 9 (1) (b) of the Act, and
 - (b) no external persons have consented to having their names forwarded to the Minister in accordance with clause 28 (1),the Council Nominations Committee is to immediately conduct a search for external persons suitable for recommendation to the Council for nomination to the Minister for his or her consideration for appointment.

25 Council Nominations Committee's search for potential nominees

- (1) In conducting a search under clause 24, the Council Nominations Committee may invite proposals from members of the Council and such other persons or bodies as the Committee thinks fit.
- (2) In exercising its functions, the Council Nominations Committee must take into account the following:
 - (a) any criteria for appointment determined by the Council,
 - (b) the need to maintain an appropriate balance of experienced and new members on the Council in accordance with clause 1 (2) of Schedule 1 to the Act.
- (3) Subject to the Act, nothing in this Division prevents a current member of the Council from submitting a proposal to the Committee in respect of his or her re-appointment to the Council under this Division.

26 Council Nominations Committee to make recommendations to Council

- (1) The Council Nominations Committee:
 - (a) must consider the results of its search, and
 - (b) must recommend a name or names to be forwarded to the Council for nomination to the Minister by the Council for his or her consideration for appointment, and
 - (c) must recommend the term of appointment (not exceeding 4 years) for each such person, and
 - (d) must forward those recommendations to the Council.
- (2) The Council Nominations Committee may recommend to the Council a number of names for nomination to the Minister for his or her consideration for appointment that exceeds the number of available positions.

27 Council to consider recommendations

- (1) The Council must do the following:
 - (a) consider any recommendations forwarded to the Council by the Council Nominations Committee under clause 26,
 - (b) determine which persons are to be nominated to the Minister for his or her consideration for appointment,
 - (c) determine the term of appointment (not exceeding 4 years) for each such person that the Council will recommend to the Minister.
- (2) The Secretary is to forward the nominations to the Minister for his or her consideration for appointment.

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Part 3 Election and appointment of members of Council

- (3) The Council may nominate to the Minister for his or her consideration for appointment a number of names for appointment that exceeds the number of available positions.

28 Filling of casual vacancy

- (1) If a casual vacancy occurs in the office of a member appointed to the Council by the Minister under section 9 (1) (b) of the Act, the Council is to forward to the Minister the name of an external person whose name was contained in the previous recommendation forwarded to the Minister for his or her consideration for appointment to the Council under clause 27 but who was not appointed to the Council.
- (2) The Council is to forward the name of the external person under subclause (1) only with the consent of that person.

Note. Under clause 3 of Schedule 1 to the Act the by-laws may prescribe procedures for the appointment or election of a person to fill a casual vacancy.

Division 3 Appointment of external persons by the Council: section 9 (1) (c)

Note. This Division provides for the appointment by the Council of external persons as members of the Council under section 9 (1) (c) of the Act, after eligible persons have been recommended to the Council by the Council Nominations Committee.

29 Appointment of external persons under section 9 (1) (c)

- (1) The Council is to appoint to the Council under section 9 (1) (c) of the Act 3 external persons who are graduates of the University.
- (2) The Council may determine to appoint a person who is not a graduate of the University to one of the 3 positions under section 9 (1) (c) of the Act in accordance with clause 38.

Note. Under clause 1 (2) of Schedule 1 to the Act, the Council must ensure that the appointment of members under section 9 (1) (c) of the Act maintains an appropriate balance of experienced and new members on the Council.

30 Invitation to apply for appointment

- (1) If a vacancy arises under section 9 (1) (c) of the Act, the Secretary is to publish a notice inviting external persons to apply for appointment to the Council.
- (2) Except as provided in this Division, the notice must:
 - (a) state that the Council proposes to appoint external persons to the Council, and
 - (b) specify the term of office of the appointment, and

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- (c) state the criteria as to experience, knowledge and skills, as determined by the Council, that the applicant must possess to be eligible for appointment, and
 - (d) specify any other requirements that must be satisfied by the applicant for the acceptance of the application, and
 - (e) invite applications for appointment and specify how applications are to be made, and
 - (f) specify the close of applications, and
 - (g) provide any other information about the appointment that the Secretary considers is appropriate to provide.

31 Persons may be invited to apply

Nothing in this Division prevents a member of the Council, or the Council Nominations Committee, from inviting a person to apply for appointment to the Council under section 9 (1) (c) of the Act if that person is otherwise qualified to apply.

32 Current members may apply

Subject to the Act, a current member of the Council may re-apply for appointment to the Council under section 9 (1) (c) of the Act and any such application is to be considered on the same terms as other applications.

33 Making of applications

An application for appointment to the Council under section 9 (1) (c) of the Act:

- (a) must be made in writing using the application form determined by the Secretary from time to time, and
- (b) must be signed by the applicant, and
- (c) must be accompanied by any declaration required under clause 34, and
- (d) must be received by the Secretary by the close of applications.

34 Declaration by applicants

The Secretary may require applicants for appointment to the Council under section 9 (1) (c) of the Act to complete and sign a declaration, in the form determined by the Secretary, with respect to:

- (a) the applicant's eligibility to be appointed to the Council under the Act, and

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- (b) any material personal interests of the applicant, or an associate of the applicant, in matters likely to be considered at a meeting of the Council, and
- (c) such other matters as the Council Nominations Committee may determine.

35 Council Nominations Committee to consider applications and make recommendation

- (1) After the close of applications, the Council Nominations Committee is to consider the applications and is to reject any application if:
 - (a) the applicant is not eligible to be appointed under the Act, or
 - (b) the applicant does not, in the view of the Committee, meet the essential criteria for appointment as determined by the Council, or
 - (c) the application does not comply with the requirements set out in the notice inviting applications.
- (2) The Council Nominations Committee is to consider the remaining applicants and is to forward to the Council a list of applicants who are recommended for appointment (including the recommended term of appointment of each applicant).

36 Council to consider recommendations

- (1) The Council:
 - (a) must consider the recommendations of the Council Nominations Committee, and
 - (b) must determine which persons are to be appointed by the Council under section 9 (1) (c) of the Act, and
 - (c) must determine the term of appointment (not exceeding 4 years) for each such person.
- (2) The Council may decide not to make an appointment to 1 or more of the 3 available positions on the Council under section 9 (1) (c) of the Act.

37 Procedures where 1 or more positions remain vacant

If the Council decides not to make an appointment to 1 or more of the 3 vacant positions under section 9 (1) (c) of the Act from the persons who made applications for that appointment, the Council:

- (a) must request the Secretary to issue a new invitation for applications from external persons following the same procedures set out in this Division, or
- (b) must follow the procedure in clause 38 in relation to the new applications only.

38 Approval to appoint non-graduates

If the Council Nominations Committee forms the view that it is necessary to increase the range of potential applicants with specific skills, knowledge or experience for a vacant position or positions on the Council under section 9 (1) (c) of the Act, the Council Nominations Committee may request the Secretary to issue a new notice under clause 30 for applications from external persons:

- (a) who are graduates of the University, or
- (b) who are not graduates of the University,

for appointment to the Council under section 9 (1) (c) of the Act for the purpose of that appointment only.

39 Casual vacancy

In the event that a casual vacancy occurs in the office of a member appointed under section 9 (1) (c) of the Act, the Council may appoint an external person on the recommendation of the Council Nominations Committee.

Note. Under clause 3 of Schedule 1 to the Act, the by-laws may prescribe procedures for the appointment or election of a person to fill a casual vacancy.

40 Council Nominations Committee's deliberations to be confidential

All matters relating to the appointment of persons under section 9 (1) (c) of the Act are confidential and must not be disclosed, other than to the Council.

41 Decision is final

Subject to the Act and this By-law, a decision of the Secretary, the Council Nominations Committee or the Council relating to any matter under this Division, is final.

42 Appointment not invalidated because of certain errors

An appointment to the Council under section 9 (1) (c) of the Act is not invalid only because:

- (a) a person did not see a notice inviting applications, or
- (b) any or all of the documents referred to in this Division were not issued to a person, or
- (c) the Secretary or the Council Nominations Committee did not comply with this Division in any respect, or
- (d) a person who met the criteria for appointment was not appointed.

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43 Secretary to decide matters

The Secretary may, subject to the Act and this By-law, decide all matters relating to the procedures for the making of appointments under section 9 (1) (c) of the Act.

44 Timing of appointments

The appointment of a person under section 9 (1) (c) of the Act is to be made (where practicable):

- (a) in the case of a vacancy that arises because of the expiration of the term of office of the current member—at least 3 months prior to the expiration of the term of the member, or
- (b) in the case of a casual vacancy—within 3 months after the vacancy arises.

45 Term of office

The term of office of a member appointed by the Council under section 9 (1) (c) of the Act is to be specified in the instrument of appointment of the member as follows:

- (a) in the case of a person appointed to fill a vacancy that arises because of the expiration of the term of office of the previous member—a term of up to 4 years commencing on 1 July next following the appointment of the person,
- (b) in the case of a casual vacancy—the balance of the term of office of the previous member.

Division 4 Election of members of the Council: section 9 (1) (d), (e) and (f)

Subdivision 1 Operation of Division

46 Operation of Division

This Division sets out the method of the election of:

- (a) 2 persons who are members of the academic staff of the University, under section 9 (1) (d) of the Act, and
- (b) 1 person who is a member of the general staff of the University, under section 9 (1) (e) of the Act, and
- (c) 1 person who is an undergraduate student of the University, under section 9 (1) (f) of the Act, and
- (d) 1 person who is a postgraduate student of the University, under section 9 (1) (f) of the Act.

47 How election is to be conducted

An election is to be conducted by secret ballot as prescribed by this Division.

48 Returning officer

- (1) The Secretary is the returning officer for all elections under this Division.
- (2) The returning officer may, subject to the Act and this By-law, decide all matters relating to the procedure for the conduct of an election under this Division.
- (3) Subject to the Act and this By-law, a decision of the returning officer relating to an election under this Division, including a decision relating to the eligibility of a candidate or a voter, the conduct of the election or the result of an election, is final.

Subdivision 2 Rolls of electors**49 Rolls of electors**

- (1) The Executive Director of Human Resources of the University is to prepare, at least 1 week before the close of nominations for an election, the following rolls:
 - (a) in the case of an election under section 9 (1) (d) of the Act—a Roll of Academic Staff containing the names and last known addresses of the members of academic staff of the University,
 - (b) in the case of an election under section 9 (1) (e) of the Act—a Roll of General Staff containing the names and last known addresses of the members of the general staff of the University.
- (2) The Executive Director, Student Administration of the University is to prepare, at least 1 week before the close of nominations for an election under section 9 (1) (f) of the Act, the following rolls:
 - (a) a Roll of Undergraduate Students containing the names and last known addresses of undergraduate students of the University,
 - (b) a Roll of Postgraduate Students containing the names and last known addresses of the postgraduate students of the University.
- (3) A person is entitled to have his or her name entered on the Roll of Academic Staff if that person holds a position, on a full-time basis, of or above the rank of associate lecturer of the University and the person is not a student or a member of the general staff.

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- (4) A person is entitled to have his or her name entered on the Roll of General Staff if that person holds a general staff position, on a full-time basis, at the University and the person is not a student or a member of the academic staff.
- (5) A person is entitled to have his or her name entered on the Roll of Postgraduate Students if that person is enrolled as a candidate proceeding to a postgraduate award, as determined by the Council, of at least 2 years' duration and who is not an undergraduate student or a member of the general staff or the academic staff of the University.
- (6) A person is entitled to have his or her name entered on the Roll of Undergraduate Students if that person is enrolled as a candidate proceeding to an undergraduate award, as determined by the Council, of at least 2 years' duration and who is not a postgraduate student or a member of the general staff or the academic staff of the University.
- (7) The Executive Director of Human Resources and Executive Director of Student Administration of the University:
 - (a) are to give to the returning officer, 1 week before the close of nominations for an election, a current copy of the rolls required to be prepared by this clause, and
 - (b) are to ensure that the returning officer is notified of any changes to those rolls occurring after the copy is given to the returning officer and before the close of nominations, and
 - (c) are to remove from a roll of electors the name and address of a person on being satisfied that the person is no longer eligible to have his or her name and address entered on that roll.
- (8) A person is not entitled to have his or her name and address entered on more than 1 roll of electors at the same time.
- (9) The returning officer may transfer the name and address of a person from one roll to another if the returning officer is satisfied that the person is eligible to have his or her name and address on that other roll.
- (10) In this clause:

Executive Director of Human Resources means the person employed in the position of Executive Director, Human Resources or, where that office does not exist, a person nominated by the Vice-Chancellor as principally responsible for the management of human resources.

Executive Director of Student Administration means the person employed in the position of Executive Director, Student Administration or, where that office does not exist, a person nominated by the Vice-Chancellor as principally responsible for the management of student administration.

50 Qualifications for candidates and voters

- (1) The qualifications for election and voting for a member of the Council are as follows:
 - (a) in the case of the election of an academic staff member under section 9 (1) (d) of the Act—the qualifications for election as an academic staff member of the Council, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of Academic Staff at the close of nominations for the relevant election,
 - (b) in the case of the election of a general staff member under section 9 (1) (e) of the Act—the qualifications for election as a general staff member of the Council, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of General Staff at the close of nominations for the relevant election,
 - (c) in the case of the election of an undergraduate student member under section 9 (1) (f) of the Act—the qualifications for election as an undergraduate student member of the Council, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of Undergraduate Students at the close of nominations for the relevant election,
 - (d) in the case of the election of a postgraduate student member under section 9 (1) (f) of the Act—the qualifications for election as a postgraduate student member of the Council, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of Postgraduate Students at the close of nominations for the relevant election.
- (2) A person may not stand for election for more than 1 position as a member of the Council, even if his or her name is entered on more than 1 Roll prepared under this By-law.

Subdivision 3 Notice of election**51 Timing of election**

- (1) An election to fill a vacancy in the office of a member elected to the Council under section 9 (1) (d), (e) or (f) of the Act is to be held (where practicable):
 - (a) in the case of a vacancy that arises because of the expiration of the term of office of the current member—at least 3 months before the term of office of the current member expires, or

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- (b) in the case of a casual vacancy—within 3 months after the vacancy arises.
- (2) An election to fill a vacancy in the office of an elected member of the Council is to be called as soon as practicable after 1 March in any year in which the term of office of an elected member of the Council of the relevant category expires.
- (3) Where practicable, the election is to be completed, and the result of the election declared, before 1 July in that year.

52 Election intervals for different stages of election process

- (1) When conducting an election to elect members of the Council under section 9 (1) (d) or (e) of the Act, the returning officer must ensure that:
 - (a) there are not less than 10 working days and not more than 25 working days between the publication of the notice that an election is to be held and the time for the close of nominations, and
 - (b) there are not more than 20 working days between the close of nominations and the issue of ballot papers, and
 - (c) there are not less than 10 working days and not more than 40 working days between the issue of ballot papers and close of the ballot.
- (2) When conducting an election of a member of the Council under section 9 (1) (f) of the Act, the returning officer must ensure that:
 - (a) there are not less than 10 working days and not more than 25 working days between the publication of the notice that an election is to be held and the time for the close of applications, and
 - (b) there are not less than 10 working days and not more than 25 working days between the close of nominations and the close of applications for postal votes, and
 - (c) there are not less than 10 working days and not more than 25 working days between the close of applications for postal votes and polling day.
- (3) Despite subclauses (1) and (2), the returning officer may, by notice published in the same way as the notice stating that an election is to be held, postpone (for a period not exceeding 10 working days at a time) the close of nominations, the close of applications for postal votes or the polling day.
- (4) The power conferred on a returning officer by subclause (3) may be exercised more than once in respect of an election.

53 Returning officer to notify holding of election

If an election is necessary, the returning officer must publish, by such means as the returning officer considers appropriate, a notice of election notifying electors who are eligible to vote in the election.

54 Information to be given in notice of election

A notice of election must:

- (a) state that an election is necessary, and
- (b) specify whether it is an election of a member of the Council under section 9 (1) (d), (e) or (f) of the Act, and
- (c) specify the number of vacancies to be filled, and
- (d) invite nominations of candidates who are eligible for election, and
- (e) specify the form in which nominations must be made, and
- (f) specify the close of nominations, and
- (g) specify the close of ballot for the election, and
- (h) in the case of an election of a member of the Council under section 9 (1) (f) of the Act:
 - (i) state that a student is not eligible to vote or stand as a candidate in an election for an undergraduate student member unless the student's name is on the Roll of Undergraduate Students, and
 - (ii) state that a student is not eligible to vote or stand as a candidate in an election for a postgraduate student member unless the student's name is on the Roll of Postgraduate Students, and
 - (iii) specify the hours of polling on polling day and the places where polling is to be conducted, and
 - (iv) inform students who are unable to attend a polling place on polling day that they can vote by post and when and how they can do so, and
 - (v) contain such other information relating to the election as the returning officer thinks fit.

Subdivision 4 Nominations**55 Nomination of candidates for election**

- (1) A person may be nominated as a candidate for an election only in accordance with this clause.

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- (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 at least 2 persons who are entitled to vote at the election concerned, and
 - (b) must be endorsed with or accompanied by the consent in writing of the candidate.
- (4) A candidate may provide a written statement about the candidate of not more than 150 words.
- (5) The statement may specify:
 - (a) the candidate's full name, and
 - (b) the candidate's qualifications and experience, and
 - (c) any positions or offices that the candidate has held at any time in public bodies, clubs or other organisations, together with dates of tenure in relation to those positions or offices.
- (6) The returning officer may:
 - (a) edit the statement, and
 - (b) in the case of a postal ballot—make the statement available on the Internet service of the University, and
 - (c) in the case of an on-campus poll—make the statement available at the polling places.
- (7) The returning officer:
 - (a) must reject a nomination form that does not comply with this clause, and
 - (b) must reject a nomination form from any person who is not eligible for election, and
 - (c) in either event, must give written notice to the candidate of the fact that his or her nomination form has been rejected.
- (8) If a candidate has his or her nomination form rejected, the returning officer must invite the candidate to submit another nomination form if:
 - (a) the candidate is eligible for election, and
 - (b) the close of nominations has not passed.

56 Procedure after close of nominations

- (1) If the number of candidates duly nominated for an election is not more than the number of vacancies to be filled, the returning officer must declare the candidate or candidates to be elected.

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- (2) If the number of candidates duly nominated for an election is more than the number of vacancies to be filled, the returning officer must conduct an election to fill the vacancies. The election is to be conducted by secret ballot as prescribed by this Division.
 - (3) If there are no valid nominations for election to a position on the Council, the returning officer is to report the matter to the next meeting of the Council.

Subdivision 5 Conduct of ballot

57 Conduct of ballot for election of academic staff members and general staff member

- (1) If a poll is required for an election to the Council of an academic staff member or a general staff member under section 9 (1) (d) or (e) of the Act, the returning officer is to conduct a postal ballot.
- (2) The returning officer is to send the following documents to each person who is on the Roll of Academic Staff or the Roll of General Staff, as the case may be:
 - (a) a ballot paper,
 - (b) a notice setting out how the ballot paper is to be completed and specifying the date and time by which the completed ballot paper must reach the returning officer,
 - (c) a form of declaration of identity and of entitlement to vote,
 - (d) 2 envelopes, one marked "Ballot Paper" and the other addressed to the returning officer,
 - (e) the Internet address of any statements (as edited by the returning officer) that have been submitted by the candidates in relation to their nominations.
- (3) The documents referred to in subclause (2) may be sent by post, by hand or by using the University's electronic or internal mail system.
- (4) The returning officer may, on receipt of a declaration that a voting paper has been lost, destroyed or spoiled, issue a duplicate voting paper to that person if satisfied as to the truth of the declaration.

58 Conduct of ballot of student members

- (1) If a poll is required for an election of an undergraduate student member of the Council or a postgraduate student member of the Council under section 9 (1) (f) of the Act, the returning officer is to arrange an on-campus poll.

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- (2) The returning officer is to arrange:
 - (a) for the poll to be held on the polling day, and
 - (b) for a poll officer to attend on that day at the polling places during the hours for polling specified in the notice of election for the purpose of issuing ballot papers to the electors.
- (3) The returning officer is to send the following documents to each person who has applied for a postal vote in accordance with this By-law:
 - (a) a ballot paper,
 - (b) a notice setting out how the ballot paper is to be completed and specifying the date and time by which the completed ballot paper must reach the returning officer,
 - (c) a form of declaration of identity and of entitlement to vote,
 - (d) 2 envelopes, one marked "Ballot paper" and the other addressed to the returning officer,
 - (e) the Internet address of any statements (as edited by the returning officer) that have been submitted by the candidates in relation to their nominations.
- (4) The returning officer may, on receipt of a declaration by a person who has applied for a postal vote stating that a voting paper has been lost, destroyed or spoiled, issue a duplicate voting paper to that person if satisfied as to the truth of the declaration.
- (5) A student member who has not received a postal ballot paper and who applies in person to the poll officer during polling hours on polling day is entitled to be issued with a ballot paper for the student election. However, the poll officer may refuse to issue a ballot paper to a person claiming to be a student if satisfied that the person:
 - (a) is not an eligible student, or
 - (b) has already received a ballot paper for the election.
- (6) The poll officer must take such steps as are practicable to ensure that only 1 ballot paper is issued to any one student.
- (7) The poll officer may issue a replacement ballot paper to a student on receipt of a spoilt ballot paper if satisfied that the ballot paper issued to the student has been spoiled.

59 Requirements for ballot papers

- (1) All ballot papers must specify the names of the candidates.
- (2) The returning officer must:
 - (a) arrange for the order in which those names are to appear on ballot papers to be decided by lot and for those names to appear on all ballot papers in that order, and
 - (b) ensure that the names of any candidates who are currently elected members of the Council are indicated as such.
- (3) The returning officer must initial each ballot paper at the time it is issued.

60 How ballot paper is to be completed

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. The elector must then give contingent votes to the remaining candidates by placing the numbers “2”, “3”, “4” and so on, as the case requires, opposite the names of the other candidates so as to indicate unambiguously by numerical sequence the order of the elector’s preference for those other candidates.

61 Procedure for voting by post

- (1) This clause applies to a postal ballot conducted under clause 57 or 58.
- (2) Each elector must, after completing the postal ballot paper that was sent or delivered to the elector:
 - (a) enclose and seal that ballot paper in the envelope marked “Ballot Paper”, and
 - (b) enclose and seal that envelope in the envelope that is addressed to the returning officer, together with the personal declaration, and
 - (c) send by post or deliver to the returning officer the envelope so addressed so as to ensure the returning officer will receive it not later than the close of ballot.
- (3) However an elector may, instead of complying with subclause (2), deposit the completed ballot paper in a ballot box at a polling place on polling day where a ballot box has been established for that election by the returning officer.

62 Procedure for voting at on-campus ballot

- (1) This clause applies to an on-campus ballot conducted under clause 58.

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- (2) An elector who is issued with a ballot paper must, after completing the ballot paper, deposit the ballot paper in the ballot box provided for the purpose at the polling place.
- (3) Such a ballot paper must be deposited in the presence of a poll officer and as soon as the elector has recorded his or her vote.
- (4) A ballot paper received by a poll officer is, for the purposes of this By-law, taken to be sent or delivered to, or received by, the returning officer.

63 Envelopes and ballot papers not to be opened

The returning officer must take all reasonable steps to ensure that all envelopes received by the officer under clause 61 (2) remain unopened until the close of the poll concerned.

64 Candidate may appoint scrutineer

- (1) Each candidate for election is entitled to nominate 1 scrutineer to be present at any counting of votes.
- (2) A person is qualified to be appointed as a scrutineer at an election only if the person is eligible to vote in that election.
- (3) A candidate for election is not eligible to be appointed as a scrutineer at the election.

65 Officers not to disclose how electors voted

- (1) This clause applies to the following persons concerned with the conduct of an election:
 - (a) the returning officer,
 - (b) any deputy returning officer,
 - (c) any poll officer or other person appointed by the returning officer to assist in the conduct of the election,
 - (d) any scrutineer appointed in connection with the election.
- (2) A person to whom this clause applies must not disclose, or assist another person to disclose, any information as to how any particular elector has voted at an election.

Subdivision 6 Procedure after close of ballot

66 Procedure after close of poll

As soon as practicable after the close of ballot at an election, the returning officer must, in the presence of such of the scrutineers as choose to be present, examine the ballot papers cast at the election.

67 Certain ballot papers to be rejected as informal

- (1) The returning officer must reject as informal any ballot paper cast by an elector at an election that:
 - (a) is not initialled as required by clause 59, or
 - (b) does not comply with a requirement of clause 60, 61 or 62, or
 - (c) is marked in a way that is not authorised by this Division and that, in the opinion of the returning officer, will enable any person to identify the elector.
- (2) Despite subclause (1), a ballot paper is not informal only because a figure placed on the ballot paper is not placed in or entirely in the square opposite a candidate's name. However, in that case the figure must have been placed on the ballot paper in such a position as clearly indicates to the satisfaction of the returning officer the order of the elector's preferences for the candidates.

68 Withdrawal, death or ineligibility of candidate

- (1) If, before the close of nominations, a candidate withdraws his or her nomination, the candidate's name should be removed from the ballot paper (if practicable).
- (2) If, before the declaration of the poll for an election, a candidate at the election dies, becomes no longer eligible for election or withdraws his or her nomination (and it was not practicable to remove the candidate's name from the ballot paper), the election is to proceed as if:
 - (a) the candidate had not been nominated for election, and
 - (b) that candidate's name had not been included on the ballot papers printed for the election, and
 - (c) any vote for that candidate had not been cast.

Subdivision 7 Determination of election result**69 Determination of election result where only 1 candidate is to be elected**

- (1) In this clause, *absolute majority of votes* means a number greater than one half of the total number of formal ballot papers counted.
- (2) If at an election only 1 candidate is to be elected, the method of counting votes is as provided by this clause.
- (3) The total number of first preference votes given to each candidate must be counted.
- (4) If at the election a candidate has an absolute majority of votes, the returning officer must declare the candidate to be elected. However, if at the election no candidate has an absolute majority of votes, then:

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- (a) the candidate who has the fewest votes must be excluded, and
 - (b) each ballot paper allocated to the excluded candidate must be reallocated to the continuing candidate next in order of the elector's preference.
- (5) The returning officer must then conduct a second count. If any candidate then has an absolute majority of votes, the returning officer must declare the candidate to be elected. However, if no candidate then has an absolute majority of votes, the processes of:
- (a) excluding the candidate who has the fewest votes, and
 - (b) allocating each voting paper counted to the excluded candidate to the continuing candidate next in order of the elector's preference, and
 - (c) conducting a further count,
- must be repeated until 1 candidate has an absolute majority of votes. The returning officer must then declare that candidate to be elected.
- (6) If, after any count other than the final count, 2 or more candidates have an equal number of votes and 1 such candidate has to be excluded, the returning officer must determine by lot which of them is to be excluded. The determination by lot is to be conducted as follows:
- (a) the name of each of the candidates is to be written on separate and similar slips of paper,
 - (b) those slips must then be folded so as to prevent identification,
 - (c) those slips are then to be mixed and 1 slip is to be drawn at random,
 - (d) the candidate whose name is drawn is to be excluded.
- (7) If, at the stage when only 2 continuing candidates remain, those candidates have an equal number of votes, the returning officer must determine by lot which of them must be elected. The determination by lot is to be conducted as follows:
- (a) the name of each candidate concerned is to be written on separate and similar slips of paper,
 - (b) the slips must then be folded so as to prevent identification,
 - (c) those slips are then to be mixed and 1 slip is to be drawn at random,
 - (d) the candidate whose name is drawn is to be elected.
- (8) The candidate so elected is taken to have received an additional vote.

70 Determination of election result where more than 1 candidate is to be elected

- (1) If at an election more than 1 candidate is to be elected, the method of counting votes is as provided by this clause.
- (2) The returning officer must count the total number of first preference votes given to each candidate.
- (3) The candidate who has the fewest votes must then be excluded.
- (4) If the number of continuing candidates is then equal to the number to be elected, the returning officer must declare those continuing candidates to be elected. However, if the number of continuing candidates is greater than the number to be elected, each ballot paper allocated to the excluded candidate must be reallocated to the continuing candidate next in order of the elector's preference.
- (5) The returning officer must then carry out a second count.
- (6) The candidate who has the fewest votes must then be excluded. If the number of continuing candidates is then equal to the number to be elected, the returning officer must declare those continuing candidates to be elected. However, if the number of continuing candidates is still greater than the number to be elected, the processes of:
 - (a) allocating the continuing candidate next in order of the elector's preference, and
 - (b) conducting a further count, and
 - (c) excluding the candidate who has the fewest votes,must be repeated until the number of continuing candidates is equal to the number to be elected. The returning officer must then declare those continuing candidates to be elected.
- (7) If, after any count, 2 or more candidates have an equal number of votes and 1 of those candidates has to be excluded, the returning officer must determine by lot which of them is to be excluded. The determination by lot is to be conducted as follows:
 - (a) the name of each of the candidates is to be written on separate and similar slips of paper,
 - (b) those slips must then be folded so as to prevent identification,
 - (c) those slips are then to be mixed and 1 slip is to be drawn at random,
 - (d) the candidate whose name is drawn is to be excluded.

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71 Procedure where no candidate nominates for election

If the returning officer reports to the Council under clause 56 (3) that there were no valid nominations for an election called under this Division, the Council may:

- (a) request the returning officer to conduct a new election under this Division, or
- (b) deem that a casual vacancy has occurred and appoint a person in accordance with clause 73 (2).

Note. Under clause 3 of Schedule 1 to the Act the by-laws may prescribe procedures for the appointment or election of a person to fill a casual vacancy.

72 Election not invalidated because of certain errors

- (1) An election is not invalid only because, at the close of nominations or on polling day, the name of a person who is entitled to have his or her name entered on a roll of electors is omitted from that roll.
- (2) An election is not invalid only because a person whose name is on a roll of electors did not receive a ballot paper or did not see a notice of election.
- (3) An election is not invalid only because:
 - (a) a ballot paper has not been issued to a person whose name is eligible to be entered on the relevant roll of electors but the name has not been so entered, or
 - (b) such a person's vote has not been accepted at the election, or
 - (c) any or all of the documents referred to in clause 57 (2) or 58 (3) were not issued to a person eligible to cast a postal ballot, or
 - (d) a person eligible to vote at an on-campus poll did not see or receive any available candidate's statements, or
 - (e) a person eligible to vote did not see a notice required to be sent under this Division, or
 - (f) a statement was edited by the returning officer in accordance with clause 55 (6), or
 - (g) the returning officer did not comply with this Division in any respect.

73 Filling of casual vacancy

- (1) If there is a casual vacancy in the office of an academic staff member, general staff member, undergraduate member or postgraduate member of the Council, the Council must, if that person consents, appoint the runner up in the most recent election for that position to hold the office of that member for the residue of the term.

(2) If the office cannot be filled in accordance with subclause (1) the Council must appoint a person who is qualified to hold that office to hold the office of that member for the residue of the term.

(3) In this clause:

runner up in an election means the person who, in the vote counting process at the election, was the last remaining candidate for election aside from the person who was declared elected.

Note. Under clause 3 of Schedule 1 to the Act the by-laws may prescribe procedures for the appointment or election of a person to fill a casual vacancy.

Division 5 Appointment of graduate by the Council: section 9 (1) (g)

Note. This Division provides for the appointment by the Council of a graduate of the University as a member of the Council under section 9 (1) (g) of the Act, after eligible persons have been recommended to the Council by the Council Nominations Committee.

74 Appointment of external persons under section 9 (1) (g)

The Council is to appoint to the Council 1 external person who is a graduate of the University under section 9 (1) (g) of the Act.

75 Invitation to apply for appointment

(1) Where a vacancy arises on the Council under section 9 (1) (g) of the Act, the Secretary is to publish a notice inviting graduates of the University to apply for appointment to the Council.

(2) Except as provided in this Division, the notice must:

- (a) state that the Council proposes to appoint a graduate to the Council, and
- (b) specify the term of office of the appointment, and
- (c) invite applications for appointment and specify how applications are to be made, and
- (d) state the criteria as to experience, knowledge and skills, as determined by the Council, that the applicant must possess to be eligible for appointment as determined by the Council, and
- (e) specify any other requirements that must be satisfied by the applicant for the acceptance of the application, and
- (f) specify the date and time for close of applications, and
- (g) provide any other information about the appointment that the Secretary considers is appropriate to provide.

2005 No 691

Clause 76 Charles Sturt University By-law 2005

Part 3 Election and appointment of members of Council

76 Persons may be invited to apply

Nothing in this Division prevents a member of the Council, or the Council Nominations Committee, from inviting persons to apply for appointment to the Council under section 9 (1) (g) of the Act if that person is otherwise qualified to apply.

77 Current members may apply

Subject to the Act, a current member of the Council may re-apply for appointment to the Council under this Division and any such application is to be considered on the same terms as other applications.

78 Making of applications

An application for appointment to the Council under section 9 (1) (g) of the Act:

- (a) must be made in writing using the application form determined by the Secretary from time to time, and
- (b) must be signed by the applicant, and
- (c) must be accompanied by any declaration required by clause 79, and
- (d) must be received by the Secretary by the close of applications.

79 Declaration by applicants

The Secretary may require applicants for appointment to the Council under section 9 (1) (g) of the Act to complete and sign a declaration, in the form determined by the Secretary, with respect to:

- (a) their eligibility to be appointed to the Council under the Act, and
- (b) any material personal interests of the applicant, or an associate of the applicant, in matters likely to be considered at a meeting of the Council, and
- (c) such other matters as the Council Nominations Committee may determine.

80 Council Nominations Committee to consider applications and make recommendation

- (1) After the close of applications, the Council Nominations Committee is to consider the applications and is to reject any application if:
 - (a) the applicant is not eligible to be appointed under the Act, or
 - (b) the applicant does not, in the view of the Committee, meet the essential criteria for appointment as determined by the Council, or

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- (c) the application does not comply with the requirements set out in the notice.
 - (2) The Committee is to consider the remaining applicants and is to recommend to the Council a list of applicants that are recommended for appointment (including the recommended term of appointment of each applicant).

81 Council to consider recommendations

- (1) The Council:
 - (a) must consider the recommendations of the Council Nominations Committee, and
 - (b) must determine the person to be appointed by the Council, and
 - (c) must determine the length of appointment (not exceeding 4 years).
- (2) The Council may decide not to make an appointment to 1 or more of the available positions on the Council under section 9 (1) (g) of the Act.

82 Procedures where position remains vacant

Where the Council decides not to make an appointment to the Council under section 9 (1) (g) of the Act from the persons who made applications for that appointment, the Council is to request the Secretary to issue a new invitation for applications from graduates following the same procedures set out in this Division.

83 Casual vacancy

In the event that a casual vacancy occurs in the office of a member of the Council appointed under section 9 (1) (g) of the Act, the Council may appoint a graduate on the recommendation of the Council Nominations Committee.

Note. Under clause 3 of Schedule 1 to the Act the by-laws may prescribe procedures for the appointment or election of a person to fill a casual vacancy.

84 Council Nominations Committee's deliberations to be confidential

All matters relating to the appointment of persons under section 9 (1) (g) of the Act are confidential and must not be disclosed, other than to the Council.

85 Decision is final

A decision of the Secretary, the Council Nominations Committee or the Council relating to any matter under this Division, is final.

2005 No 691

Clause 86 Charles Sturt University By-law 2005

Part 3 Election and appointment of members of Council

86 Appointment not invalidated because of certain errors

An appointment to the Council under section 9 (1) (g) of the Act is not invalid only because:

- (a) a person did not see a notice inviting applications, or
- (b) any or all of the documents referred to in this Division were not issued to a person, or
- (c) the Secretary or the Council Nominations Committee did not comply with this Division in any respect, or
- (d) a person who met the criteria for appointment was not appointed.

87 Secretary to decide matters

The Secretary may, subject to the Act and this By-law, decide all matters relating to the procedures for the making of appointments under section 9 (1) (g) of the Act.

88 Timing of appointments

The appointment of a person under section 9 (1) (g) of the Act is to be held (where practicable):

- (a) in the case of a vacancy that arises because of the expiration of the term of office of the current member—at least 3 months before the term of the member expires, or
- (b) in the case of a casual vacancy—within 3 months after the vacancy arises.

89 Term of office

The term of office for a member appointed by the Council under section 9 (1) (g) of the Act is to be specified in the instrument of appointment of the member as follows:

- (a) in the case of a person appointed to fill a vacancy that arises because of the expiration of the term of office of the previous member—a term of up to 4 years commencing on 1 July next following the appointment of the person,
- (b) in the case of a casual vacancy—the balance of the term of office of the previous member.

90 Order in which appointments to be made

Where a position is vacant under section 9 (1) (c) and (g) of the Act at the same time, the Council is to first appoint an applicant under section 9 (1) (g).

Division 6 Determination of criteria for appointment

91 Determination of criteria for appointment

Without limiting clause 108, the Council may from time to time make rules for or with respect to the assessment and determination of the skills, knowledge and experience required by persons for the purpose of appointment to the Council under section 9 (1) (c) and (1) (g) of the Act.

2005 No 691

Clause 92 Charles Sturt University By-law 2005

Part 4 Meetings of the Council

Part 4 Meetings of the Council

92 Ordinary meetings of the Council

The Council is to hold ordinary meetings at least 5 times in each calendar year on such dates as may be approved by the Council from time to time.

93 Special meetings of the Council

- (1) The Secretary must convene a special meeting of the Council for the consideration of urgent business on receipt of a written request to do so from:
 - (a) the Chancellor, or
 - (b) in the absence of the Chancellor, the Deputy Chancellor, or
 - (c) the Vice-Chancellor, or
 - (d) at least 5 members of the Council.
- (2) A request under subclause (1) is to specify the purpose of the meeting and the items to be considered.
- (3) The date of the special meeting convened under subclause (1) is to be a date within 10 working days after the request to hold the meeting is made.
- (4) A special meeting of the Council is convened by giving notice of the meeting to each of the members of the Council in accordance with clause 95.

94 Members to give notice of business for consideration at Council meeting

- (1) The Secretary, or a member of the Council, may initiate a matter for discussion at a meeting of the Council.
- (2) A motion may be put to a vote of the Council only if it has been moved by a member of the Council.

95 Secretary to give notice of Council meetings

- (1) The Secretary must send a notice of the date, time and place of a meeting of the Council to each member of the Council at least 5 working days before the meeting.
- (2) A notice under subclause (1) may be sent by electronic mail or by such other written means as determined by the Secretary.
- (3) The notice is to be accompanied by a copy of the business papers for the meeting and any relevant supporting documents.

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- (4) The Secretary may, by a further notice sent by electronic mail delivered not less than 2 working days before the meeting, notify members of the Council of any supplementary business that is to be put before the meeting.
 - (5) Where a special meeting is convened under clause 93, the Secretary must give such notice of the date, time, place and business of the meeting as is reasonable in the circumstances.

96 Person presiding at meeting of Council to have casting vote

- (1) The person presiding at a meeting of the Council has a deliberative vote and also has a casting vote if the votes for and against a motion are equal.
- (2) A motion lapses if the person presiding declines to exercise a casting vote when the votes for and against the motion are equal.

97 Adjournment of Council meetings

The Council may, by resolution, adjourn a meeting of the Council to a later time or date at the same or another place.

98 Standing over of unfinished business

If, at a meeting of the Council, a quorum is not present:

- (a) within half an hour after the time fixed for the meeting, or
- (b) within such further time as the person presiding may reasonably allow,

all business that should have been transacted at the meeting is to be stood over until the next ordinary meeting, and is to take precedence at that meeting, unless a special meeting is convened in the meantime for the transaction of that business.

Note. Under clause 8 of Schedule 1 to the Act, a quorum is a majority of the total number of members for the time being of the Council.

99 Validity of proceedings

Proceedings at a meeting of the Council are taken to have been validly transacted even though the Secretary may have failed to comply with this Part in any respect or any person may not have received notice of the meeting or any business papers or other documents relevant to the meeting.

100 Council may make “standing orders”

Without limiting clause 108, the Council may make rules, not inconsistent with this Part, for regulating the procedure at meetings of the Council. Those rules may be referred to as “standing orders”.

2005 No 691

Clause 101 Charles Sturt University By-law 2005

Part 5 Academic Senate

Part 5 Academic Senate

Note. Section 16 of the Act provides for there to be an Academic Senate of the University consisting of the Vice-Chancellor, members of the academic staff of the University, and of other universities, appointed by the Council and such other persons as are determined by the Council in accordance with the by-laws.

101 Qualifications for appointment to Academic Senate

The Council may by resolution determine the qualifications required to be held by persons in order to become members of the Academic Senate under section 16 (1) (d) of the Act.

102 Constitution of Academic Senate

The Council may by resolution determine the persons who are to be members of the Academic Senate under section 16 (1) (d) of the Act.

103 Casual vacancies

- (1) If a person who holds office as a member of the Academic Senate under section 16 (1) (d) of the Act by virtue of having been elected by a body of, or a body associated with, the University vacates office during the first 12 months of the member's term of office, the vacancy is to be filled by the Council after an election held by the Council.
- (2) If a person who holds office as a member of the Academic Senate under section 16 (1) (d) of the Act by virtue of having been elected by a body of, or a body associated with, the University vacates office during the last 12 months of the member's term of office, the vacancy is to be filled by an appointment made by the Council.
- (3) If a person who holds office as a member of the Academic Senate under section 16 (1) (d) of the Act by virtue of having been appointed or nominated to that office by a body of, or a body associated with, the University vacates office during the member's term of office, the vacancy is to be filled by the Council from a nomination made by that body.
- (4) A person is not eligible to be elected, appointed or nominated to fill a vacancy under this clause unless he or she holds the appropriate qualification (if any) to be a member of the Academic Senate of a category of the office that was vacated.
- (5) A person who fills a vacancy under this clause holds office as a member of the Academic Senate, subject to the Act and this By-law, for the rest of the term of the person's predecessor in office.
- (6) In this clause, *body* includes a combination of bodies.

104 Term of office

- (1) A member of the Academic Senate referred to in section 16 (1) (c) or (d) of the Act holds office, subject to the Act and this By-law, for 2 years from and including the date on which the member takes office.
- (2) This clause does not apply to persons who are members of the Academic Senate only because they hold particular offices or positions at the University.

105 Functions of Academic Senate

- (1) The principal functions of the Academic Senate as the principal academic body of the University are as follows:
 - (a) to advise the Council and the Vice-Chancellor on all matters relating to teaching, scholarship and research conducted at or in connection with the University,
 - (b) to ensure the high quality of teaching and learning within the University by developing and implementing appropriate policies,
 - (c) to determine lists of graduands of the University specifying the award and the level of award that each of the graduands is to receive,
 - (d) to advise the Vice-Chancellor on the teaching and research activities of the University and on the allocation of teaching and research responsibilities within the University's faculties,
 - (e) to consider and report on all matters referred to it by the Council or the Vice-Chancellor,
 - (f) to make recommendations to the Council or the Vice-Chancellor about academic standards or facilities at the University.
- (2) The Council may make rules under clause 108 that confer additional functions on the Academic Senate.
- (3) The Academic Senate has such other functions as may be necessary to enable it to exercise the functions specified in subclause (1) or added by virtue of subclause (2).

106 Procedure of Academic Senate

The Council may by resolution provide for the procedure for electing or appointing members of the Senate to be its Presiding Officer and Deputy Presiding Officer.

2005 No 691

Clause 107 Charles Sturt University By-law 2005

Part 5 Academic Senate

107 Committees of Academic Senate

- (1) The Academic Senate may constitute 1 or more committees.
- (2) Such a committee of the Academic Senate is prescribed under section 20 of the Act as a body to which the Council may delegate all or any of its functions (except the power of delegation) but only in relation to those functions conferred on the Academic Senate under clause 105.

Part 6 Rules

Note. Section 32 of the Act provides that the by-laws may empower any authority (including the Council) or officer of the University to make rules for or with respect to any or all of the matters for or with respect to which by-laws may be made, except matters referred to in sections 3 (2), 9 (1) (c)–(g) and (8), 10 (2), 15 (1), 19 (1) (d) and (e), 26 and 31 (1) (b) and (k) of, and clauses 1 (1) (c) and (d) and 3 of Schedule 1 to, the Act. The section also provides that a rule:

- (a) has the same force and effect as a by-law, and
- (b) may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule, and
- (c) takes effect on the day on which it is published or on such later day as may be specified in the rule, and
- (d) must indicate the authority or officer who made the rule and that it is made under section 32.

108 Council may make rules

- (1) The Council may make rules in accordance with section 32 of the Act.
- (2) If the Council makes a rule, the Secretary must ensure that:
 - (a) the rule is published on the Internet on the website of the University, and
 - (b) copies of the rule are made available for inspection at the office of the Vice-Chancellor.
- (3) Any amendment or repeal of a rule must be published and made available in accordance with subclause (2).
- (4) The fact that clauses 109 and 110 confer on the Vice-Chancellor or the Academic Senate the authority to make a rule does not prevent the same matter from being the subject of rules made by the Council.

109 Vice-Chancellor may make rules

- (1) The Vice-Chancellor may make rules in accordance with section 32 of the Act for the management and discipline of the University.
- (2) If the Vice-Chancellor makes a rule, the Vice-Chancellor must ensure that:
 - (a) the rule is published on the Internet on the website of the University, and
 - (b) a copy of the rule is tabled at the next meeting of the Council, and
 - (c) copies of the rule are made available for inspection at the office of the Vice-Chancellor.
- (3) Any amendment or repeal of a rule must be published and made available in accordance with subclause (2).

2005 No 691

Clause 110 Charles Sturt University By-law 2005

Part 6 Rules

110 Academic Senate may make rules

- (1) The Academic Senate may make rules in accordance with section 32 of the Act for or with respect to the following:
 - (a) the establishment of committees of the Academic Senate (provided that the functions of those committees do not exceed the functions conferred on the Academic Senate under clause 105),
 - (b) the manner and time of convening, holding and adjourning meetings of the Academic Senate and its committees,
 - (c) the manner of voting at meetings of the Academic Senate and its committees,
 - (d) the conduct of business of the Academic Senate and its committees.
- (2) If the Academic Senate makes a rule, the Chair of the Academic Senate must ensure that:
 - (a) the rule is published on the Internet on the website of the University, and
 - (b) a copy of the rule is tabled at the next meeting of the Council, and
 - (c) copies of the rule are made available for inspection at the office of the Vice-Chancellor.
- (3) Any amendment or repeal of a rule must be published and made available in accordance with subclause (2).

111 Interpretation of rules

Expressions used in any rule made under this Part have the same meaning as in the Act or in this By-law.

112 Inconsistency between rules

If the Vice-Chancellor or Academic Senate makes a rule that is inconsistent with a rule made by the Council, the rule made by the Council prevails to the extent of the inconsistency.

Note. Section 32 (3) of the Act provides that in the event of any inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

Part 7 Miscellaneous

113 Conferring of honorary awards

- (1) The Council may confer, *honoris causa*, any degree of the University.
- (2) A degree awarded by the Council *honoris causa* before the commencement of this By-law is taken to have been conferred pursuant to this clause.

114 Designation of members of staff

- (1) For the purposes of Part 3, a person is designated as academic staff if that person holds a position, on a full-time basis, of or above the rank of associate lecturer of the University and the person is not a student or a member of the general staff.
- (2) For the purposes of Part 3, a person is designated as general staff if that person holds a general staff position, on a full-time basis, at the University and the person is not a student or a member of the academic staff.

115 Repeal

- (1) The *Charles Sturt University By-law 1995* is repealed.
- (2) Any act, matter or thing that had effect under the *Charles Sturt University By-law 1995* immediately before its repeal is taken to have effect under this By-law.
- (3) In particular, any rule made pursuant to a provision of the *Charles Sturt University By-law 1995* and in force immediately before the repeal of that By-law is taken to have been made pursuant to the corresponding provision of this By-law.

116 Transitional provision—membership of the Council

- (1) Subject to Schedule 4 to the Act, a person who held office under the *Charles Sturt University By-law 1995* immediately before its repeal continues to hold that office for the remainder of the term of the person's office.
- (2) Subject to Schedule 4 to the Act, the person who held the office of Chancellor immediately before the repeal of the *Charles Sturt University By-law 1995* is to continue to hold that office until 31 December 2006.