



University of Technology, Sydney, Amendment By-law 2013

under the

University of Technology, Sydney, Act 1989

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

ADRIAN PICCOLI, MP
Minister for Education

Explanatory note

The object of this By-law is to amend the *University of Technology, Sydney, By-law 2005* as follows:

- (a) to enable members of the Council of the University to be elected by electronic votes,
- (b) to require the email address (if known) of persons eligible to vote at elections to be included on rolls of electors,
- (c) to require an election to be held to fill a casual vacancy in the office of a member of the Council if the term of office remaining is or exceeds half of the term of office (instead of a quarter),
- (d) to provide for the display of official notices and rules on a website of the University,
- (e) to prescribe certain persons to whom the Council may delegate its functions,
- (f) to omit a superfluous definition.

This By-law is made under the *University of Technology, Sydney, Act 1989*, including sections 17 and 28 (the general power to make by-laws).

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Clause 1 University of Technology, Sydney, Amendment By-law 2013

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under the

University of Technology, Sydney, Act 1989

1 Name of By-law

This By-law is the *University of Technology, Sydney, Amendment By-law 2013*.

2 Commencement

This By-law commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of University of Technology, Sydney, By-law 2005

[1] Clause 3 Definitions

Omit the definition of *close of the ballot* from clause 3 (1). Insert instead:

close of the ballot, in relation to an election, means the date and time for the close of the ballot specified by the Returning Officer for the election in a notice under clause 11 (2) (f).

[2] Clause 3 (1)

Insert in alphabetical order:

electronic ballot means a ballot conducted in accordance with Subdivision 6 of Division 2 of Part 2.

electronic vote means a vote cast by means of an electronic voting system.

electronic voting system means a secure system approved or managed by the Returning Officer for the purpose of tallying votes cast in an election conducted by electronic means.

non-electronic ballot means a ballot conducted in accordance with Subdivision 5 of Division 2 of Part 2.

[3] Clause 3 (3)

Omit the subclause.

[4] Part 2, Division 2, Subdivision 1, heading

Insert after the heading to Division 2 of Part 2:

Subdivision 1 Preliminary

[5] Clause 6 Rolls

Omit “last known addresses” wherever occurring.

Insert instead “last known email addresses (or, if no email address is known in a particular case, last known address)”.

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[6] Part 2, Division 2, Subdivision 2, heading

Insert after clause 6:

Subdivision 2 Provisions relating to candidates and voters

[7] Part 2, Division 2, Subdivision 3, heading

Insert after clause 10:

Subdivision 3 Calling of elections and nominations

[8] Clause 11 Call for nominations and notice of election

Omit “publish a notice referred to in this clause on the official noticeboards on the premises of the University” from clause 11 (1).

Insert instead “give notice referred to in this clause on a website maintained by the University for display of official notices”.

[9] Clause 11 (2) (c)

Omit “form”. Insert instead “manner”.

[10] Clause 11 (2) (d)

Omit “nomination papers”. Insert instead “nominations”.

[11] Clause 11 (2) (e) and (f)

Omit the paragraphs. Insert instead:

- (e) specify whether the election is to be conducted by a non-electronic ballot or an electronic ballot, and
- (f) specify the closing date of the ballot, and

[12] Clause 12

Omit the clause. Insert instead:

12 Time intervals for stages of Council elections

In any election, there must be:

- (a) no less than 14 days between the date on which publication of a notice of ballot occurs and the date on which nominations close, and

- (b) no more than 28 days between the date on which nominations close and the date of issue of ballot material, being:
 - (i) in the case of a non-electronic ballot, the date of issue of ballot papers by the Returning Officer, and
 - (ii) in the case of an electronic ballot, the date on which instructions on how to access the electronic voting system and cast a vote are provided to voters by the Returning Officer, and
- (c) no less than 14 days between the date of issue of ballot material and the closing date of the ballot.

[13] Clause 13 Making of nominations

Omit “The edited statements are to be printed and distributed with the ballot papers.” from clause 13 (5).

[14] Clause 13 (5A)

Insert after clause 13 (5):

- (5A) The edited statements are:
 - (a) if the ballot is to be conducted by a non-electronic ballot—to be printed and distributed with the ballot papers, and
 - (b) if the ballot is to be conducted by an electronic ballot—to be made available to the voters on the electronic voting system.

[15] Part 2, Division 2, Subdivision 4, heading

Insert after clause 14:

Subdivision 4 Manner of conducting ballot

[16] Clause 15 Form of ballot

Omit “using the optional preferential system”.

Insert instead “conducted in accordance with this Subdivision”.

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[17] Clauses 15A and 15B

Insert after clause 15:

15A Types of ballot

A ballot may be conducted by:

- (a) distributing ballot papers by post or by requiring eligible voters to attend a specified place or places managed or controlled by the University, at a specified date and time, in order to receive a ballot paper and vote in the election, or
- (b) requiring eligible voters to access an electronic voting system, between specified dates and times, in order to vote in the election.

Subdivision 5 Non-electronic ballot

15B Application of Subdivision

This Subdivision applies if a ballot is to be conducted as referred to in clause 15A (a).

[18] Part 2, Division 2, Subdivision 6

Insert after clause 27:

Subdivision 6 Electronic ballot

27A Application of Subdivision

This Subdivision applies if a ballot is to be conducted as referred to in clause 15A (b).

27B Conduct of electronic ballot

- (1) The Returning Officer is to ensure that each eligible voter is provided with all necessary information required in order to vote in the election including:
 - (a) the way in which the electronic voting system may be accessed, and
 - (b) the passwords (if any) required to access the electronic voting system,not less than 14 days before the close of the ballot.
- (2) The Returning Officer is to ensure that computer or other facilities that can be used to access the electronic voting system are made available free of charge at the University's campus in

order to provide each eligible voter with an opportunity to access the electronic voting system.

- (3) The Returning Officer may make additional arrangements to ensure that each eligible voter has an opportunity to access the electronic voting system.
- (4) In this clause, a reference to an eligible voter is a reference to a person whose name is on a relevant Roll of the University at the date of the close of nominations for the election.

27C Material to accompany electronic ballot

The electronic voting system must provide:

- (a) instructions for voting, and
- (b) a method of declaration of identity and entitlement to vote, and
- (c) any other information which the Returning Officer considers appropriate to include.

27D Contents of electronic ballot

- (1) The electronic voting system is to contain the names of the candidates in the order determined by the Returning Officer.
- (2) The order of the candidates must be determined randomly.

27E Method of electronic voting

- (1) A voter is to indicate the candidate to whom the voter wishes to give his or her first preference in the manner described on the electronic voting system.
- (2) If the voter wishes to show his or her preferences for any or all of the remaining candidates, the voter may do so in the manner described on the electronic voting system.

27F Procedure on close of electronic ballot

When the electronic ballot is closed, and not before, the Returning Officer must, in the presence of those scrutineers who choose to be present:

- (a) review all information and reports about the electronic ballot, and
- (b) determine the result of the electronic ballot.

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27G Informal electronic vote

- (1) An electronic vote is informal if the voter has not indicated a clear preference for at least one candidate.
- (2) The electronic voting system is to provide a warning message to any person casting an informal electronic vote that their proposed vote is informal prior to the recording of that vote.
- (3) Each informal electronic vote is to be recorded by the electronic voting system as an informal vote and the electronic voting system is to count the formal electronic votes.

27H Counting of votes

- (1) Votes must be counted by the electronic voting system in accordance with this clause.
- (2) The electronic voting system must count the number of first preference votes for each candidate.
- (3) If the candidate who has the highest number of first preference votes has an absolute majority of votes, the Returning Officer is to declare that candidate elected.
- (4) If no candidate has an absolute majority of votes, the Returning Officer must exclude the candidate who has received the fewest number of first preference votes and each of the electronic votes counted to that candidate is to be counted to the continuing candidate next in order of the voter's preference.
- (5) If 2 or more candidates have an equal number of votes at the time that it is necessary to exclude one of them, the candidate to be excluded is to be determined by the Returning Officer by lot.
- (6) The process referred to in subclauses (4) and (5) is to be continued until:
 - (a) one continuing candidate has an absolute majority of votes, in which case that candidate is to be declared elected, or
 - (b) there are only 2 continuing candidates who do not have an equal number of votes, in which case the candidate with the larger number of votes is to be declared elected (even if the number of votes is below an absolute majority of votes), or
 - (c) there are only 2 continuing candidates who have an equal number of votes, in which case the candidate to be excluded is to be determined by the Returning Officer by lot and the remaining candidate is to be declared elected.

(7) In this clause, a reference to a vote is a reference to a formal vote.

271 Secrecy of ballot to be maintained

- (1) The result of the count must remain confidential until the declaration of the poll by the Returning Officer.
- (2) The Returning Officer and any person appointed by the Returning Officer must not in any way disclose or aid in disclosing the manner in which any voter has voted.

Subdivision 7 Miscellaneous

[19] Clause 29 Casual vacancy in office of elected member of Council

Omit clause 29 (1) (a). Insert instead:

- (a) if less than half of that member's term of office remains, the Council, as soon as practicable after the vacancy occurs, with the consent of the runner up in the most recent election for that office, may appoint the runner up to hold that office under section 8D (1) (a), (b) or (c) of the Act for the remainder of the term of office, or

[20] Clause 29 (1) (b)

Omit "a quarter". Insert instead "half".

[21] Clause 29 (1A)

Insert after clause 29 (1):

- (1A) If the office is not filled in accordance with subclause (1) (a), the Council must by resolution appoint a person qualified to hold that office under section 8D (1) (a), (b) or (c) of the Act to hold office for the remainder of the term of office.

[22] Clause 29 (3)

Insert after clause 29 (2):

- (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.

[23] Clause 44 Rules made by Council, note

Omit "9 (1) (c)–(h) and (8)". Insert instead "8B, 8D, 8E and 8F (2)".

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[24] **Clause 46 Promulgation of rules**

Omit “on each of the official noticeboards of the University” from clause 46 (1).

Insert instead “on a website maintained by the University for display of official notices in an electronic manner”.

[25] **Clause 47A**

Insert after clause 47:

47A Delegation by Council

For the purposes of section 17 of the Act, the following persons are prescribed as persons to whom the Council may delegate its functions:

- (a) any member of staff of the University,
- (b) any person engaged as a contractor by the University.