



New South Wales

University of New South Wales Amendment By-law 2014

under the

University of New South Wales 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 New South Wales under the *University of New South Wales Act 1989*.

ADRIAN PICCOLI, MP
Minister for Education

Explanatory note

The object of this By-law is to amend the *University of New South Wales By-law 2005 (the principal By-law)* by:

- (a) revising and simplifying procedures for Council appointments, and
- (b) revising procedures for Council elections, including allowing elections to be held at any time of year, providing for reduced election timeframes and enabling first-past-the-post voting and electronic ballots, and
- (c) removing prescriptive detail from the principal By-law and allowing this to be supplied by rules, and
- (d) omitting superfluous definitions and provisions, and
- (e) making other miscellaneous amendments.

This By-law is made under the *University of New South Wales Act 1989*, including section 27 (the general power to make by-laws).

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1 Name of By-law

This By-law is the *University of New South Wales Amendment By-law 2014*.

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 New South Wales By-law 2005

[1] Clause 3 Definitions

Omit the definitions of *graduate member* and *Registrar*.

Insert in alphabetical order:

close of ballot, in relation to an election, means 5pm on the day specified as the closing date of the ballot for the election in a notice under clause 16 (2).

close of nominations, in relation to an election, means the date and time by which nominations must be received by the Returning Officer for the election specified in a notice under clause 16 (2).

electronic ballot means a ballot conducted in accordance with Division 4 of Part 3.

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.

eligible voter means a person whose name is on a relevant Roll of the University at the date of the close of nominations for the election.

Roll of the University means a Roll referred to in clause 10.

University website means the website maintained by the University for the display of official notices.

[2] Clause 4 Chancellor and Deputy Chancellor

Omit clause 4 (1). Insert instead:

- (1) The Chancellor and Deputy Chancellor, by virtue of their offices, are members of every committee established by the Council.

[3] Clause 4 (2)

Omit “, board or faculty” wherever occurring.

[4] Clause 6

Omit the clause.

[5] Clause 7 Returning Officer

Omit “Registrar” from clause 7 (1). Insert instead “University Secretary”.

[6] Clause 9 Time of elections

Omit “in May” from clause 9 (2).

[7] Clause 9 (3)

Omit “in June”.

[8] Clause 10 Rolls

Insert at the end of the clause:

- (2) In this clause, *address* means last known email address (or, if no email address is known in a particular case, last known postal address).

[9] Clauses 16–17

Omit clauses 16 and 17. Insert instead:

16 Notice of election and call for nominations

- (1) If an election of members of the Council is necessary, the Returning Officer must give notice of that fact on the University website and in such other places as the Returning Officer considers appropriate.
- (2) A notice referred to in this clause must:
 - (a) state that an election is necessary to fill the office or offices concerned, and
 - (b) invite nominations of persons for election, and
 - (c) specify the manner in which nominations must be made, and
 - (d) specify a date and time by which nominations must be received by the Returning Officer, and
 - (e) specify the closing date of the ballot, and
 - (f) contain such other information relating to the election as the Returning Officer considers appropriate (for example, details of the number of vacancies to be filled and of the terms of office of the members of the Council to be elected).
- (3) An election is not invalid only because a person whose name is on the relevant Roll of the University did not see a notice or a copy of a notice referred to in this clause.

16A Time intervals for stages of Council elections

In any election, there must be:

- (a) no less than 14 days between the date on which notice of the election is given and the date specified for the close of nominations, and
- (b) no more than 7 days between the date specified for the close of nominations and the date of issue of ballot material, being 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 7 days between the date of issue of ballot material and the date specified as the closing date of the ballot.

17 Making of nominations

- (1) Nominations of candidates for an election of members of the Council must be made by sending or delivering nominations to the Returning Officer.
- (2) A nomination must be signed by 2 persons whose names are recorded on the relevant Roll of the University for the election for which the candidate is nominated and must be endorsed with or accompanied by the written consent of the person nominated.
- (3) There must be a separate nomination for each candidate.
- (4) A candidate may provide with the nomination a recent photograph of the candidate and a statement of not more than 150 words containing information relating to the candidate that he or she wishes to supply. That information may include, for example, the following:
 - (a) full name,
 - (b) faculty, school or department,

- (c) academic qualifications and experience,
 - (d) positions or offices held at any time in public bodies, clubs and institutions (including University clubs and societies) with dates of tenure.
- (5) The Returning Officer is to edit all statements supplied to ensure that they:
- (a) contain no defamatory or offensive material, and
 - (b) do not exceed 150 words.
- (6) The photographs and edited statements are to be made available to the voters on the electronic voting system.
- (7) The Returning Officer must reject a nomination if satisfied that:
- (a) the nomination is not duly made, or
 - (b) the person nominated is not eligible to be elected.

[10] Clause 18 Notification of candidature and eligible voters

Omit “on the official noticeboards on the premises of the University and in such other places as the Council may determine” from clause 18 (1).

Insert instead “on the University website and in such other places as the Returning Officer considers appropriate”.

[11] Part 3, Division 4

Omit Divisions 4–6. Insert instead:

Division 4 Conduct of ballot

20 Electronic ballot

A ballot is to be conducted by requiring eligible voters to access an electronic voting system between specified dates and times in order to vote in the election.

21 Conduct of electronic ballot

- (1) The Returning Officer, not less than 7 days before the close of ballot, 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.
- (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.

22 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 that the Returning Officer considers appropriate to include.

23 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.

24 Method of electronic voting

A voter is to indicate the candidate or candidates to whom the voter wishes to give his or her vote in the manner described on the electronic voting system.

25 Informal electronic vote

- (1) An electronic vote is informal if the voter has voted for a number of candidates higher than the number of members to be elected.
- (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 only the formal electronic votes in determining the result of the electronic ballot.

26 Procedure on close of electronic ballot

On the close of ballot, 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.

27 Declaration of election

- (1) If a ballot is conducted to elect one member, the Returning Officer is to declare as elected the candidate who receives the highest number of votes.
- (2) If a ballot is conducted to elect more than one member, the Returning Officer is to declare as elected the candidates, not exceeding in number the number of members to be elected, who receive the highest number of votes.

28 Equality of votes

Where there is an equality of votes, the person to be elected is to be determined by the Returning Officer by lot.

29 Secrecy of ballot to be maintained

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

[12] Part 4, Division 1

Omit the Division.

[13] Clauses 50 and 51

Omit clauses 49–51. Insert instead:

50 Nominations Committee to make recommendations

- (1) The Nominations Committee is to do the following:
 - (a) propose persons eligible for appointment to the Council under section 8F or 8G of the Act,
 - (b) recommend which of those persons are to be (as the case may be):
 - (i) suggested for appointment by the Minister, or
 - (ii) appointed by the Council,
 - (c) recommend the length of appointment for each such person,
 - (d) forward those recommendations to the Council.
- (2) In exercising its functions under subclause (1), the Nominations Committee may receive and review proposals made by members of the Council.

51 Council to consider recommendations of Nominations Committee

- (1) The Council is to do the following:
 - (a) consider the recommendations forwarded by the Nominations Committee,
 - (b) determine which of those persons are to be (as the case may be):
 - (i) suggested for appointment by the Minister, or
 - (ii) appointed by the Council,
 - (c) determine:
 - (i) in the case of the persons referred to in paragraph (b) (i) the recommended length of appointment for each such person, or
 - (ii) in the case of the persons referred to in paragraph (b) (ii) the length of appointment for each such person.
- (2) The Chancellor is to forward the determinations referred to in subclause (1) (b) (i) and (c) (i) to the Minister.
- (3) The Council may make the determinations referred to in subclause (1) only at a meeting of the Council:
 - (a) convened by the Chancellor, the Deputy Chancellor or the Vice-Chancellor, and
 - (b) of which the University Secretary has given each member of the Council at least 7 days' notice.
- (4) The notice referred to in subclause (3) (b) must:
 - (a) be posted or delivered to each member of the Council, and
 - (b) state the date, time and place of the meeting, and
 - (c) state the purpose of the meeting.

[14] Clauses 52 and 53

Omit the clauses. Insert instead:

52 Casual vacancy in office of Ministerially appointed member

If a casual vacancy occurs in the office of a member of the Council appointed under section 8G of the Act, the Chancellor is to forward to the Minister for

consideration for appointment the name of another person recommended to it by the Nominations Committee in accordance with Division 2.

53 Casual vacancy in office of Council appointed member

If a casual vacancy occurs in the office of a member of the Council appointed under section 8F of the Act, the Council is to appoint another person recommended to it by the Nominations Committee in accordance with Division 2.

[15] Clauses 55–57

Omit clauses 54–58. Insert instead:

55 Members of Academic Board

- (1) Subject to this clause, the membership of the Academic Board is to be prescribed by the rules.
- (2) The Academic Board is to include, but is not limited to, the following categories of members:
 - (a) ex officio members,
 - (b) members elected by and from the professors of the University,
 - (c) members elected by and from the non-professorial members of the academic staff of the University,
 - (d) members elected by and from the enrolled undergraduate students of the University,
 - (e) members elected by and from the enrolled postgraduate students of the University.

56 Functions of Academic Board

The functions of the Academic Board are:

- (a) to be the principal academic body of the University, and
- (b) to oversee academic governance and the maintenance of academic standards, and
- (c) to advise the Vice-Chancellor and Council on matters relating to the conduct and standards of teaching, scholarship and research within the University, and
- (d) to consider and report on matters referred to it by the Council or by the Vice-Chancellor, and
- (e) any functions delegated to it by the Council, and
- (f) any other functions as may be prescribed by the rules.

57 President and Deputy Presidents of Academic Board

- (1) The members of the Academic Board are to elect a President and up to 2 Deputy Presidents from among themselves in such manner and for such terms as are prescribed by the rules.
- (2) The members of the Academic Board are to fill a casual vacancy in the office of the President or of a Deputy President in such manner as is prescribed by the rules.

[16] Part 6, heading

Omit “and deans”.

[17] Clause 60 Creation of faculties

Omit clause 60 (3).

[18] Clause 61 Functions of faculties

Omit clause 61 (1)–(5). Insert instead:

- (1) Each faculty has the functions prescribed by the rules.

[19] Clause 62

Omit the clause.

[20] Clause 64 Rules

Omit “in an official University publication” from clause 64 (2).

Insert instead “on the University website”.

[21] Clause 64 (4)

Omit “Registrar”. Insert instead “University Secretary”.

[22] Clause 65 Constitution of University

Omit “, President of the Academic Board and the Registrar of the University”.

Insert instead “and the President of the Academic Board”.

[23] Clause 66 Delegation by Council

Insert after clause 66 (b):

- (c) an emeritus professor of the University,
(d) a former Chancellor of the University.