



New South Wales

University of Newcastle By-law 2017

under the

University of Newcastle Act 1989

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

ROB STOKES, MP
Minister for Education

Explanatory note

The object of this By-law is to provide for certain matters under the *University of Newcastle Act 1989*, including the following:

- (a) the constitution of the University,
- (b) the qualifications and election procedures for elected members of the Council and the terms of office of those members,
- (c) the procedures for nomination of appointed members of the Council and the establishment of a Nominations Committee,
- (d) the term of office of the Chancellor,
- (e) the constitution, functions and meetings of Convocation,
- (f) the constitution and functions of the Academic Senate,
- (g) the making of rules by the Council,
- (h) other matters of a minor, consequential or ancillary nature.

This By-law repeals the *University of Newcastle By-law 2005*.

This By-law is made under the *University of Newcastle Act 1989*, including sections 3 (2), 4 (c), 8D (3) (a) and (b), 8F (2), 9 (1) (c), 10 (2), 14 (1) (c) and (d), (3) and (5), 15, 17 (1), 28 (the general power to make by-laws) and 29 (1) and (1A) and clause 3 (2) of Schedule 1.

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Part 1 Preliminary

1 Name of By-law

This By-law is the *University of Newcastle By-law 2017*.

2 Commencement

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

3 Definitions

(1) In this By-law and in any rule made under this By-law:

Council appointed member means a member of the Council appointed under section 8F of the Act.

elected (academic staff) member means a member of the Council referred to in section 8D (1) (a) of the Act.

elected (non-academic staff) member means a member of the Council referred to in section 8D (1) (b) of the Act.

elected (student) member means a member of the Council referred to in section 8D (1) (c) of the Act.

Ministerially appointed member means a member of the Council appointed under section 8G of the Act.

Nominations Committee means the Committee established under clause 9.

rule means a rule made under section 29 of the Act.

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

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this By-law.

(2) Notes included in this By-law do not form part of this By-law.

Part 2 Constitution of University

4 Prescribed staff members of University

For the purposes of section 4 (c) of the Act, the University includes:

- (a) the Deputy Vice-Chancellors,
- (b) the Pro Vice-Chancellors,
- (c) the part-time members of the academic staff, and the full-time or part-time members of the non-academic staff, of the University,
- (d) any other positions as may be specified from time to time in resolutions made by the Council.

Part 3 Members of Council

Division 1 Elected members of Council

5 Qualifications for elected members of Council

- (1) For the purposes of section 8D (3) (a) of the Act, a person is qualified to be elected as:
 - (a) an elected (academic staff) member—if the person’s name appears on the Roll of Academic Staff at the date and time for the close of nominations for the election concerned, or
 - (b) an elected (non-academic) staff member—if the person’s name appears on the Roll of Non-academic Staff at the date and time for the close of nominations for the election concerned, or
 - (c) an elected (student) member if the person’s name appears as a full or part-time student on the Roll of Undergraduate Students or the Roll of Postgraduate students at the date and time for the close of nominations for the election concerned.
- (2) The Returning Officer is to keep the Rolls referred to in subclause (1) in accordance with rules made by the Council.

6 Election procedures for elected members of Council

For the purposes of section 8D (3) (b) of the Act, an election is to be conducted in accordance with rules made by the Council.

7 Term of office of elected members of Council

For the purposes of section 9 (1) (c) of the Act:

- (a) the term of office of an elected (academic staff) member is 2 years, and
- (b) the term of office of an elected (non-academic) staff member is 2 years, and
- (c) the term of office of an elected (student) member is 1 year.

8 Casual vacancy in office of elected member of Council

- (1) A casual vacancy that occurs in the office of an elected member is to be filled as follows:
 - (a) if the casual vacancy occurs within the first 12 months of that term of office—a new election is to be conducted for the vacant office in accordance with rules made by the Council under clause 6,
 - (b) if the casual vacancy occurs on or after the first 12 months of that term of office—the Council is to resolve either:
 - (i) to fill the vacancy in the manner that the Council determines, or
 - (ii) not to fill the vacancy.
- (2) A member appointed or elected to fill a casual vacancy under this clause holds office for the unexpired part of his or her predecessor’s term of office.

Division 2 Appointed members of Council

9 Nominations Committee

The Council is to establish a Nominations Committee consisting of the following persons:

- (a) the Chancellor,

- (b) the Vice-Chancellor,
- (c) at least 2 other members of the Council, as determined by the Council.

10 Nomination procedures relating to appointed members of Council

- (1) As soon as reasonably practicable before the term of office of a Council appointed member or a Ministerially appointed member expires, the Nominations Committee (the *Committee*) is to identify persons who may be suitable for appointment as that category of member.
- (2) The Committee is:
 - (a) to determine which of those persons are to be recommended to the Council:
 - (i) for consideration for appointment by the Minister, or
 - (ii) for appointment by the Council,(as the case may be), and
 - (b) to recommend the length of appointment for each person, and
 - (c) to forward those recommendations to the Council.
- (3) The Council is:
 - (a) to consider the recommendations forwarded by the Committee, and
 - (b) to determine which of the recommended persons are to be:
 - (i) suggested for consideration for appointment by the Minister, or
 - (ii) appointed by the Council,(as the case may be), and
 - (c) to determine:
 - (i) in the case of the persons referred to in paragraph (b) (i), the suggested length of appointment for each person, or
 - (ii) in the case of the persons referred to in paragraph (b) (ii), the length of appointment for each person.
- (4) The Chancellor is to forward the determinations referred to in subclause (3) (b) (i) and (c) (i) to the Minister for consideration.

11 Casual vacancy in office of appointed member of Council

- (1) If a casual vacancy occurs in the office of a Council appointed member:
 - (a) the Committee is to identify persons who may be suitable for appointment as that category of member, and
 - (b) the Council is to appoint one of those persons, determined in accordance with the procedures set out in clause 10 (2) and (3).
- (2) If a casual vacancy occurs in the office of a Ministerially appointed member:
 - (a) the Committee is to identify persons who may be suitable for appointment as that category of member, and
 - (b) the Chancellor is to forward to the Minister for consideration for appointment the name of one of those persons, determined in accordance with the procedures set out in clause 10 (2) and (3).

Part 4 Chancellor

12 Term of office of the Chancellor

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

Note 1. The Chancellor holds office unless he or she sooner resigns or is removed from office as Chancellor or ceases to be a member of the Council—see section 10 (2) of the Act.

Note 2. The Deputy Chancellor holds office for 2 years from the date of election unless he or she sooner resigns or is removed from office as Deputy Chancellor or ceases to be a member of the Council—see section 11 of the Act.

Part 5 Convocation

13 Prescribed staff and other members of Convocation

Convocation includes:

- (a) for the purposes of section 14 (1) (c) of the Act—the part-time members of the academic staff, and the full-time or part-time members of the non-academic staff, of the University, and
- (b) for the purposes of section 14 (1) (d) of the Act:
 - (i) any person who has retired from employment as a member of the academic or non-academic staff of the University after having been a member of Convocation for 12 months or more, and
 - (ii) any person on whom the University has conferred an honorary degree or other award, or an honorary appointment, and
 - (iii) past members of the council of the Hunter Institute of Higher Education, the Newcastle Teachers' College or the Newcastle College of Advanced Education, and
 - (iv) any other person who is qualified for membership of convocation in accordance with a resolution made by the Council.

14 Meetings of Convocation

For the purposes of section 14 (3) of the Act, the convening of meetings of Convocation, and the business at meetings of Convocation, are subject to rules made by the Council.

15 Functions of Convocation

For the purposes of section 14 (5) of the Act, the functions of Convocation are as prescribed by rules made by the Council.

Part 6 Academic Senate

16 Additional members of Academic Senate

- (1) Subject to this clause, the additional members of the Academic Senate for the purposes of section 15 of the Act are as determined by the rules made by the Council.
- (2) The Academic Senate is to include, but is not limited to, the following categories of members:
 - (a) members elected by and from the professors of the University,
 - (b) members elected by and from the non-professorial members of the academic staff of the University,
 - (c) members elected by and from the enrolled undergraduate students of the University,
 - (d) members elected by and from the enrolled postgraduate students of the University.

17 President and Deputy Presidents of Academic Senate

- (1) The President and the Deputy Presidents of the Academic Senate are to be elected in accordance with rules made by the Council.
- (2) The members of the Academic Senate are to fill a casual vacancy in the office of the President or of a Deputy President in the manner prescribed by rules made by the Council.

18 Functions of Academic Senate

The functions of the Academic Senate are as follows:

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

19 Reference of matters to Council by Academic Senate

- (1) If:
 - (a) the Academic Senate does not approve a proposal concerning teaching, scholarship or research that is made by a faculty, school, board or other body within the University, and
 - (b) the faculty, school, board or other body so requests,the Academic Senate must transmit the original proposal to the Council, together with the Academic Senate's recommendations with respect to the proposal.
- (2) If the Council does not accept a recommendation of the Academic Senate with respect to the proposal, the Council must not make a final decision in the matter without further consultation with the Academic Senate.

Part 7 Making of rules

20 Making of rules by Council

- (1) The Council may make rules (not inconsistent with the Act or this By-law) for or with respect to any or all of the matters for or with respect to which rules may be made under the Act.
- (2) For the purposes of section 17 (1) of the Act, the Council may delegate its functions conferred by this clause to the Vice Chancellor, in relation to any matter or class of matters.
- (3) A rule made by the Council must be published on the University website as soon as possible after the rule is made.

Part 8 Miscellaneous

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

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

- (a) members of staff are designated as academic staff if they are employed as academic staff by the University,
- (b) members of staff are designated as non-academic staff if they are employed as teachers or professional staff by the University,
- (c) members of staff are designated as full-time members of staff or part-time members of staff if they are employed on that basis by the University.

22 Prescribed awards and certificates for graduates of University

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

- (a) an award received on completion at the Hunter Institute of Higher Education (or any of its predecessors) of an advanced education course,
- (b) a Teacher's Certificate awarded after the successful completion of the academic requirements of any predecessor of the Hunter Institute of Higher Education,
- (c) an honorary degree awarded by the University,
- (d) an award or certificate that, in the opinion of the Council, is equivalent to an award or certificate referred to in any of the preceding paragraphs.

23 Repeal

- (1) The *University of Newcastle By-law 2005* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *University of Newcastle By-law 2005*, had effect under that By-law continues to have effect under this By-law (but only to the extent that it relates to any act, matter or thing affected by this By-law and is not inconsistent with this By-law and the acts, matters or things done under this By-law).
- (3) In particular, any rule made pursuant to a provision of the repealed By-law is taken to have been made pursuant to the corresponding provision of this By-law.