



New South Wales

Western Sydney University By-law 2017

under the

Western Sydney University Act 1997

His Excellency the Governor, with the advice of the Executive Council, has approved the following By-law made by the Board of Trustees of Western Sydney University under the *Western Sydney University Act 1997*.

ROB STOKES, MP
Minister for Education

Explanatory note

The object of this By-law is to provide for certain matters under the *Western Sydney University Act 1997*, including the following:

- (a) the term of office of the Chancellor and a Deputy Chancellor of the University,
- (b) the numbers of Board appointed members of the Board and the procedures for nomination of Ministerially appointed and Board appointed members of the Board,
- (c) the terms of office of and qualifications for elected members of the Board,
- (d) the making of rules by the Board and officers of the University,
- (e) the Rolls of the University.

This By-law repeals the *Western Sydney University By-law 2005*.

This By-law is made under the *Western Sydney University Act 1997*, including sections 12 (1) and (8), 13 (2), 14 (2) and 40 (the general power to make by-laws) and clauses 1 (1) and 3 (3) of Schedule 1.

Contents

	Page
Part 1 Preliminary	
1 Name of By-law	3
2 Commencement	3
3 Definitions	3
Part 2 Chancellor and Deputy Chancellors	
4 Chancellor	4
5 Deputy Chancellors	4
Part 3 The Board	
Division 1 Appointed members of the Board	
6 Board appointed members	5
7 Nomination procedures relating to appointed members	5
8 Procedure for filling casual vacancy in office of appointed member	6
Division 2 Elected members of the Board	
9 Term of office of elected members	6
10 Election procedures for elected member of the Board	6
11 Procedure for filling casual vacancy in office of elected member	7
12 Qualifications for candidates and voters	7
Part 4 Rules	
13 Making rules	8
14 Inconsistency between rules	8
15 Publication of rules	8
16 Amendment or repeal of rules	8
Part 5 Miscellaneous	
17 Returning officer	9
18 Rolls of the University	9
19 Transitional provision	10
20 Repeal and savings provision	10

Western Sydney University By-law 2017

under the

Western Sydney University Act 1997

Part 1 Preliminary

1 Name of By-law

This By-law is the *Western Sydney University 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:

academic staff member of the Board means the member of the Board referred to in section 12 (1) (d) of the Act.

Board appointed member of the Board means a member of the Board referred to in section 12 (1) (c) or (h) of the Act.

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

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 in accordance with the election rules.

election rules means rules made by the Board for or with respect to matters referred to in section 41 (1A) of the Act.

Ministerially appointed member of the Board means a member of the Board referred to in section 12 (1) (b) of the Act.

postgraduate member of the Board means the member of the Board referred to in section 12 (1) (g) of the Act.

professional staff member of the Board means the member of the Board referred to in section 12 (1) (e) of the Act.

returning officer means the returning officer for an election, as referred to in clause 17.

rule means a rule made under section 41 (1) of the Act.

the Act means the *Western Sydney University Act 1997*.

undergraduate member of the Board means the member of the Board referred to in section 12 (1) (f) of the Act.

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 Chancellor and Deputy Chancellors

4 Chancellor

For the purposes of section 13 (2) of the Act, the prescribed period for which the Chancellor is to hold office is as follows:

- (a) for a person elected to fill a vacancy due to the expiry of the term of office of the previous Chancellor—4 years commencing on:
 - (i) 1 January following the election of the person, or
 - (ii) if another date following the election is resolved by the Board, that other date,
- (b) for a person elected to fill a casual vacancy in the office of Chancellor:
 - (i) if the vacancy occurs within the first 12 months of the term of office of the previous Chancellor—the remainder of the term,
 - (ii) in any other case—4 years, commencing on a date following that election that is resolved by the Board.

Note. Section 37 of the Act enables the re-appointment or re-election of a person to an office under the Act that the person has held and for which the person is still eligible.

Section 38 of the Act limits the circumstances in which a person is eligible to hold the office of Chancellor for a third consecutive term and provides that a person is not eligible to hold that office for 4 consecutive terms.

5 Deputy Chancellors

- (1) For the purposes of section 14 (2) of the Act, the prescribed period for which a Deputy Chancellor is to hold office is as follows:
 - (a) for a person elected to fill a vacancy due to the expiry of the term of office of a Deputy Chancellor—4 years commencing on:
 - (i) 1 January following the election of the person, or
 - (ii) if another date following that election is resolved by the Board, that other date,
 - (b) for a person elected to fill a casual vacancy in the office of a Deputy Chancellor—the remainder of the term of office of the previous Deputy Chancellor concerned.
- (2) If the Board so resolves, the term of office for a Deputy Chancellor provided for in subclause (1) is to be reduced to a shorter period specified in the resolution to ensure that the term corresponds with the term for which the Deputy Chancellor holds office as a member of the Board.

Note. Section 37 of the Act enables the re-appointment or re-election of a person to an office under the Act that the person has held and for which the person is still eligible.

Section 38 of the Act limits the circumstances in which a person is eligible to hold the office of a Deputy Chancellor for a third consecutive term and provides that a person is not eligible to hold that office for 4 consecutive terms.

Part 3 The Board

Division 1 Appointed members of the Board

6 Board appointed members

- (1) For the purposes of section 12 (1) (c) of the Act, the Board is to appoint 4 external persons as members of the Board.
- (2) For the purposes of section 12 (1) (h) of the Act, the Board is to appoint 1 external person as a member of the Board.

Note 1. Clause 1 (1) (b) and (d) of Schedule 1 to the Act provide that a member of the Board appointed under section 12 (1) (c) or (h) of the Act holds office for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment.

Note 2. Section 37 of the Act enables the re-appointment or re-election of a person to an office under the Act that the person has held and for which the person is still eligible.

Section 38 of the Act limits the circumstances in which a person is eligible to hold the office of an appointed or elected member of the Board for a third consecutive term and provides that a person is not eligible to hold that office for 4 consecutive terms.

7 Nomination procedures relating to appointed members

- (1) As soon as reasonably practicable before the term of office of a Ministerially appointed member or a Board appointed member of the Board expires, a nominations committee established by the Board is to identify persons who may be suitable for appointment as a member of that category.
- (2) The nominations committee is:
 - (a) to determine which of those persons are to be recommended to the Board:
 - (i) for nomination for consideration for appointment by the Minister, or
 - (ii) for appointment by the Board,as the case may be, and
 - (b) to recommend the period of appointment for each of the persons to be recommended, and
 - (c) to forward its recommendations to the Board.
- (3) In determining the persons to be recommended under subclause (2) (a), the nominations committee is to have regard to:
 - (a) the skills and experience of the current members of the Board, and
 - (b) the matters referred to in section 12 (5) and (6) of the Act.
- (4) The Board is:
 - (a) to consider the recommendations forwarded by the nominations committee, and
 - (b) to determine which of the recommended persons are to be:
 - (i) nominated for consideration for appointment by the Minister, or
 - (ii) appointed by the Board,as the case may be, and
 - (c) to determine:
 - (i) in the case of the persons referred to in paragraph (b) (i), the recommended period of appointment for each such person, or
 - (ii) in the case of the persons referred to in paragraph (b) (ii), the period of appointment for each such person.

- (5) The Chancellor is to forward the determinations referred to in subclause (4) (b) (i) and (c) (i) to the Minister.
- (6) A nominations committee is to consist of the following persons:
 - (a) the Chancellor,
 - (b) the Deputy Chancellor or the Deputy Chancellors (as the case may be),
 - (c) the Vice-Chancellor,
 - (d) if the Board so resolves, one or more members of the Board who are external persons (within the meaning of section 12 (10) of the Act).
- (7) Despite subclause (6), a nominations committee may be differently constituted if the Board so resolves.

8 Procedure for filling casual vacancy in office of appointed member

- (1) If a casual vacancy occurs in the office of a Ministerially appointed member of the Board, the Chancellor is to forward to the Minister for consideration for appointment the name or names of one or more persons recommended to the Board in accordance with the procedures set out in clause 7.
- (2) If a casual vacancy occurs in the office of a Board appointed member of the Board, the Board is to appoint another person to fill the vacancy in accordance with the procedures set out in clause 7.

Note. Clause 1 of Schedule 1 to the Act provides that, subject to the Act, a member appointed under section 12 (1) (b), (c) or (h) of the Act holds office for the term (not exceeding 4 years) specified in the member's instrument of appointment.

Division 2 Elected members of the Board

9 Term of office of elected members

For the purposes of clause 1 (1) (c) of Schedule 1 to the Act:

- (a) the prescribed term of office of an academic staff member, a professional staff member or an undergraduate member of the Board is as follows:
 - (i) for a person elected to fill a vacancy due to the expiry of the term of office of the previous office holder—2 years commencing on 1 January following the election of the person,
 - (ii) for a person elected to fill a casual vacancy—the remainder of the term of office of the previous office holder, and
- (b) the prescribed term of office of a postgraduate member of the Board is as follows:
 - (i) for a person elected to fill a vacancy due to the expiry of the term of office of the previous office holder—2 years commencing on 1 July following the election of the person, or
 - (ii) for a person elected to fill a casual vacancy—the remainder of the term of office of the previous office holder.

Note. Section 37 of the Act enables the re-appointment or re-election of a person to an office under the Act that the person has held and for which the person is still eligible.

Section 38 of the Act limits the circumstances in which a person is eligible to hold the office of an appointed or elected member of the Board for a third consecutive term and provides that a person is not eligible to hold that office for 4 consecutive terms.

10 Election procedures for elected member of the Board

For the purposes of section 12 (1) (d) (iii), (e) (iii), (f) (iii) and (g) (iii) of the Act, an election is to be conducted in accordance with rules made by the Board.

11 Procedure for filling casual vacancy in office of elected member

A casual vacancy in the office of an academic staff member, a professional staff member, an undergraduate member or a postgraduate member of the Board is to be filled as follows:

- (a) if the vacancy occurs within the first 12 months of the term of that office, a person is to be elected in accordance with rules made by the Board, to hold the office for the remainder of the term,
- (b) in any other case, the Board must appoint a person who is qualified to hold that office to hold the office of that member for the remainder of the term.

12 Qualifications for candidates and voters

- (1) The qualifications for election for a position as a member of the Board and voting at an election are as follows:
 - (a) **Academic staff member**
The qualifications for election as an academic staff member of the Board, 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 the Roll of Academic Staff at the date and time for the close of nominations for the relevant election.
 - (b) **Professional staff member**
The qualifications for election as a professional staff member of the Board, 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 the Roll of Professional Staff at the date and time for the close of nominations for the relevant election.
 - (c) **Undergraduate member**
The qualifications for election as an undergraduate member of the Board, 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 the Roll of Undergraduate Students at the date and time for the close of nominations for the relevant election.
 - (d) **Postgraduate member**
The qualifications for election as a postgraduate member of the Board, 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 the Roll of Postgraduate Students at the date and time for the close of nominations for the relevant election.
- (2) A person may not stand for election for more than one position as a member of the Board, even if his or her name is entered on more than one Roll kept under this By-law.
- (3) A person whose name is entered on more than one Roll kept under this By-law may vote in each relevant election category.

Part 4 Rules

13 Making rules

- (1) The Board may make rules for or with respect to all or any of the matters for or with respect to which rules may be made under the Act.
- (2) The Vice-Chancellor may make rules for the good conduct and management of the University.

Note. Section 41 (1) of the Act provides that the by-laws may empower any authority (including the Board) or officer of the University to make rules (not inconsistent with the Act or the by-laws) for or with respect to matters for which by-laws may be made, except the matters referred to in sections 3 (2), 12 (1) (c), (d) (ii), (e) (ii), (f) (ii), (g) (ii) and (h) (ii) and (8), 13 (2), 14 (2), 22 (1) (e) and (f) and 40 (1) (ja) of the Act and clause 1 (1) (c) and (d) of Schedule 1 to the Act and clause 3 of that Schedule (to the extent it relates to appointments).

However, section 41 (1A) of the Act provides that only the Board may be empowered to make rules for or with respect to which by-laws may be made concerning matters referred to in sections 12 (1) (d) (iii), (e) (iii), (f) (iii), (g) (iii) and (h) (iii) and 40 (1) (b) of the Act and clause 3 of Schedule 1 to the Act (to the extent it relates to elections) (**election rules**).

14 Inconsistency between rules

A rule made by the Board prevails over a rule made by the Vice-Chancellor to the extent of any inconsistency.

Note. Section 41 (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.

15 Publication of rules

- (1) A rule must be published on the University's website.
- (2) A rule may also be:
 - (a) published by any other method determined by the Board (for rules made by the Board) or the Vice-Chancellor (for rules made by the Vice-Chancellor), including by electronic means, and
 - (b) made available for inspection in hard copy form.
- (3) Failure to comply with subclause (1) does not invalidate a rule.

Note. Section 41 (2) (c) of the Act provides that a rule takes effect on the day on which it is published or on such later day as may be specified in the rule.

16 Amendment or repeal of rules

- (1) A person or body with power to make a rule under this By-law also has power to amend or repeal that rule from time to time.
- (2) Clause 15 applies to an amendment or repeal of a rule in the same way as it applies to the making of the rule.

Part 5 Miscellaneous

17 Returning officer

- (1) The Secretary of the University is the returning officer for all elections.
- (2) The returning officer is to take all reasonable steps to ensure the fairness and integrity of the election process.
- (3) Subject to the Act and this By-law, the returning officer's decision is final in connection with any matter affecting the conduct of an election including, without limitation, eligibility of candidates and the results of any election.
- (4) The returning officer may authorise another person to exercise any function of the returning officer under this By-law or the rules of the Board. Any function exercised by that authorised person is taken to have been exercised by the returning officer.

18 Rolls of the University

- (1) The returning officer is to keep the following rolls:
 - (a) a Roll of Academic Staff containing the names of persons employed by the University as academic staff members:
 - (i) on a full-time basis, or on a part-time basis that requires at least 50% of the full-time work hours for an equivalent position to be worked, and
 - (ii) on a continuing basis, or for a fixed term of at least 1 year,
 - (b) a Roll of Professional Staff containing the names of persons employed by the University as professional staff members:
 - (i) on a full-time basis, or on a part-time basis that requires at least 50% of the full-time work hours for an equivalent position to be worked, and
 - (ii) on a continuing basis, or for a fixed term of at least 1 year,
 - (c) a Roll of Undergraduate Students containing the names of the students:
 - (i) who are enrolled at the University as candidates proceeding to an undergraduate degree, diploma or certificate, and
 - (ii) whose names are not entered on the Roll of Academic Staff or the Roll of Professional Staff,
 - (d) a Roll of Postgraduate Students containing the names of the students:
 - (i) who are enrolled at the University as candidates proceeding to a postgraduate degree, diploma or certificate, and
 - (ii) whose names are not entered on the Roll of Academic Staff or the Roll of Professional Staff.
- (2) A person is not entitled to have his or her name entered on the Roll of Undergraduate Students or the Roll of Postgraduate Students unless the person has completed, to the satisfaction of the University, all requirements for enrolment or re-enrolment in the degree, diploma or certificate course concerned.
- (3) The returning officer is entitled to alter a Roll at any time by:
 - (a) correcting any error or omission in the details entered on the Roll, or
 - (b) changing, on the written application of any eligible person, the name or address of that person entered on the Roll, or
 - (c) removing the name of any deceased person, or
 - (d) removing a superfluous entry where a person's name appears more than once on the Roll,
 - (e) removing the name of a person who is not eligible to be entered on the Roll,

- (f) reinstating the name of an eligible person removed from the Roll if the returning officer is satisfied that the person is entitled to be entered on the Roll.
- (4) Despite subclause (3), a Roll is not invalid only because any one or more of the following occurs in connection with the Roll:
 - (a) the Roll contains any mistake or omission in the details of any eligible person entered on the Roll,
 - (b) the Roll contains the name of any deceased person,
 - (c) the Roll contains more than one entry for the same eligible person,
 - (d) the Roll contains the name of a person who is not entitled to be entered on the Roll,
 - (e) the Roll does not contain the name of a person entitled to be entered on the Roll.

19 Transitional provision

- (1) Any person who, immediately before the commencement of this By-law, held office as Chancellor or a Deputy Chancellor continues to hold that office for the remainder of the term for which that person was elected, subject to the Act and this By-law.
- (2) Any person who, immediately before the commencement of this By-law, held office as a member of the Board (whether elected or appointed):
 - (a) remains a member of the Board in the category for which he or she was elected or appointed, and
 - (b) continues to hold that office for the remainder of the term for which that person was elected or appointed, subject to the Act and this By-law.

20 Repeal and savings provision

- (1) The *Western Sydney University By-law 2005* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Western Sydney University 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 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.