

# University of New England By-law 2005

[2005-850]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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New South Wales

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# University of New England By-law 2005



New South Wales

## Part 1 Preliminary

### 1 Name of By-law

This By-law is the *University of New England By-law 2005*.

### 2 Definitions

(1) In this By-law:

**the Act** means the *University of New England Act 1993*.

(2) Where this By-law empowers an authority or officer of the University to make rules, expressions used in any such rule have the same meaning as in the Act or in this By-law.

(3) In this By-law, references to an authority, officer or office are to be construed as references to that authority, officer or office in and of the University.

(4) 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.

### 3 Notes

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

## Part 2 Additional members of the University

### 4 Additional staff members

The following members of the staff of the University are prescribed as additional members of the University, for the purpose of section 4 (c) of the Act:

- (a) the academic staff of the University that are not full-time members of the academic staff or professors,
- (b) the non-academic staff of the University.

## **Part 3 The Council**

### **Division 1 The Constitution of the Council**

#### **5 The Chancellor and Deputy Chancellor**

- (1) The Chancellor and Deputy Chancellor are to be elected according to procedures determined by the Council.
- (2) The Chancellor and Deputy Chancellor may, without specific appointment, exercise the right of membership of any committee of the University.

#### **6 External members**

- (1) Council is, by acting in accordance with the provisions of Division 3 of this Part, to appoint two external persons as members of the Council under section 8F (1) of the Act.
- (2) Two external persons are to be elected to the Council, in accordance with the provisions of Division 2 of this Part, under section 8E (2) (b) of the Act.

#### **7 Terms of office**

- (1) For the purpose of section 10 (2) of the Act, the prescribed period (being the period for which the Chancellor holds office) is 5 years from the date of election.
- (2) A member of the Council elected in accordance with section 8D (1) (a)–(c) of the Act holds office for a term of 2 years from the date of election.
- (3) A member of the Council elected in accordance with section 8E (2) (a) of the Act holds office for a period of 4 years from the date of election.

#### **8 Casual vacancy**

- (1) If a casual vacancy in the office of a member of the Council elected pursuant to section 8D (1) (a), (b) or (c) or 8E (2) (a) of the Act occurs within the first 12 months of the term of that office, the Council is to appoint as a member of the Council the candidate, if any, who in the election immediately preceding the occurrence of the vacancy received the greatest number of votes of the candidates for that office who were not elected and who remain qualified to hold that office. The candidate holds office for the remainder of the term of office of the candidate's predecessor.
- (2) If a casual vacancy in the office of a member of the Council elected pursuant to section 8D (1) (a), (b) or (c) or 8E (2) (a) of the Act occurs otherwise than within the first 12 months of the term of that office, or if a vacancy occurring within those 12 months cannot be filled under subclause (1), the Council must, as soon as practicable after the vacancy occurs, appoint a member (being a person qualified to hold that office) for the remainder of the term of office.

## **Division 2 Election of members of the Council**

### **9 Returning Officer**

- (1) An election of any elected member of the Council is to be conducted by the Secretary to the Council who is to be the Returning Officer for the election.
- (2) Subject to the provisions of the Act and this Division, the decision of the Returning Officer on all matters affecting the eligibility of candidates and the conduct and results of an election is to be final.
- (3) The Returning Officer is to appoint a Deputy Returning Officer, and may appoint further Deputy Returning Officers, and other persons, to assist the Returning Officer in the conduct of all or any part of an election.
- (4) An election is not invalid because of any failure from any cause to comply with a procedural requirement, or because of any mistake in the keeping of records or the sending of voting papers.

### **10 Rolls**

The Returning Officer is to obtain the following separate Rolls at the time of calling for nominations:

- (a) a Roll of Academic Staff containing the names and addresses of those persons who are members of the academic staff of the University, employed half-time or greater than half-time, and who have had at least 12 months service at the University,
- (b) a Roll of Non-Academic Staff containing the names and addresses of those persons who are members of the non-academic staff of the University employed half-time or greater than half-time, and who have had at least 12 months service at the University, and whose names are not entered on the Roll of Academic Staff,
- (c) a Roll of Undergraduate Students containing the names and addresses of those persons enrolled as candidates proceeding to a bachelor's degree (including bachelor's honours), or diploma or certificate of the University, other than a graduate diploma or graduate certificate, and whose names are not entered on the Roll of Academic Staff or the Roll of Non-Academic Staff or the Roll of Postgraduate Students,
- (d) a Roll of Postgraduate Students containing the names and addresses of those persons enrolled as candidates proceeding to a degree or diploma or certificate other than a bachelor's degree, bachelor's honours degree, or non-graduate diploma or non-graduate certificate, and whose names are not entered on the Roll of Academic Staff, or the Roll of Non-Academic Staff or the Roll of Undergraduate Students,
- (e) a Roll of Graduates containing the names and addresses of those persons who have completed the requirements for a course at the University and who have been

admitted to the award, and whose names are not entered on the Roll of Academic Staff, or the Roll of Non-Academic Staff or the Roll of Undergraduate Students or the Roll of Postgraduate Students.

## **11 Qualifications for elected members**

- (1) The qualification for election for a member of the Council referred to in section 8D (1) (a) of the Act is that the member must have his or her name entered on the Roll of Academic Staff at the time of the call for nominations for the election.
- (2) The qualification for election for the member of the Council referred to in section 8D (1) (b) of the Act is that the member must have his or her name entered on the Roll of Non-Academic Staff at the time of the call for nominations for the election.
- (3) The qualification for election for the member of the Council referred to in section 8D (1) (c) of the Act is that the member must have his or her name entered on the Roll of Undergraduate Students or on the Roll of Postgraduate Students at the time of the call for nominations for the election.
- (4), (5) (Repealed)
- (6) A person who wishes to stand for election to Council and is eligible to do so by reason of having his or her name on more than one roll, may only accept nomination in one capacity.
- (7) In this clause, a reference to the call for nominations for the election is a reference to the date on which the notice is published under clause 3 of Schedule 1.

## **12 Qualifications to vote**

- (1) An academic staff member is qualified to vote in an election for a member of the Council referred to in section 8D (1) (a) of the Act if his or her name is entered on the Roll of Academic Staff at the time of the call for nominations for the election.
- (2) A non-academic staff member is qualified to vote in an election for the member of the Council referred to in section 8D (1) (b) of the Act if his or her name is entered on the Roll of Non-Academic Staff at the time of the call for nominations for the election.
- (3) An undergraduate student or a postgraduate student is qualified to vote in an election for the member of the Council referred to in section 8D (1) (c) of the Act if his or her name is entered on the Roll of Undergraduate Students or on the Roll of Postgraduate Students, respectively, at the time of the call for nominations for the election.
- (4), (5) (Repealed)
- (6) In this clause, a reference to the call for nominations for the election is a reference to the date on which the notice is published under clause 3 of Schedule 1.

### **13 Election procedure**

Subject to the provisions of this Division, an election is to be conducted by secret ballot in accordance with the procedures set out in Schedule 1.

## **Division 3 Appointment of members of the Council**

### **14 Nomination procedures relating to appointed members**

- (1) The Council is to establish a Council Nominations Committee consisting of such persons as are determined by the Council.
- (2) At least 3 months before the term of office of a member of Council appointed under section 8F or 8G of the Act expires, the Council is to propose the names of persons who may be suitable for nomination for appointment as such a member and forward the proposals to the Council Nominations Committee.
- (3) The Committee is to consider the proposals from the Council and determine which persons are to be nominated:
  - (a) for consideration for appointment by the Minister, or
  - (b) for appointment by the Council,(as the case may be), and is to recommend the length of appointment for each such person.
- (4) The Committee is to forward its nominations:
  - (a) in relation to appointments under section 8G of the Act, to the Council for presentation by the Chancellor to the Minister, and
  - (b) in relation to appointments under section 8F of the Act, to the Council.

### **15 Appointment procedure for members appointed by Council**

If the Council receives, in accordance with clause 14 (4) (b), more nominations for appointment than there are positions available, the Council is to determine which persons are to be appointed to the Council.

## **Part 4 Convocation**

### **16 Additional staff members of Convocation**

- (1) The following members of the staff of the University are prescribed as members of Convocation for the purpose of section 14 (1) (c) of the Act:
  - (a) staff whose period of service with the University is at least 12 months,
  - (b) staff who are invited by the Council to be a member of Convocation or who are



part of a group of staff that is invited by the Council to be a member of Convocation.

- (2) For the purpose of section 14 (1) (d) of the Act, the Council may, by resolution, admit as members of Convocation such persons who the Council considers to have given outstanding service to the University or to be specially qualified to advance the interests of the University.

## **17 Function of Convocation**

The function of Convocation is to submit to the Council such proposals as Convocation considers appropriate with respect to the interests of the University.

## **18 Quorum for meetings of Convocation**

A quorum for a general meeting of Convocation is 100 members.

# **Part 5 Academic Board**

## **19 Academic Board Membership**

- (1) For the purpose of section 15 (1) (b) of the Act, the Council may determine any of the following to be members of the Academic Board:
  - (a) a Pro Vice-Chancellor,
  - (b) an Executive Dean or Associate Dean of any faculty,
  - (c) the head of an academic school,
  - (d) such officers of the University as may be prescribed by the rules,
  - (e) such elected members as may be prescribed by the rules of the University.
- (2) An officer, or class of officers, may be prescribed by the rules to be an Observer at Academic Board, with the right of attendance and debate at meetings of the Academic Board only.

## **20 Academic Board Executive**

- (1) There is to be an Executive of the Academic Board consisting of the Chair and two Deputy Chairs elected by the Board.
- (2) A Chair or Deputy Chair must be a Professor or Associate Professor who is a member of the Academic Board.
- (3) The method of election and the term of office of the members of the Academic Board Executive may be prescribed by the rules.
- (4) The functions of the Academic Board Executive may be prescribed by the rules.

## **21 Primary function of Academic Board**

The Academic Board is to report to the Council and advise the Council and the Vice-Chancellor on all developments and initiatives relating to and affecting the University's teaching and research activities and its educational programs.

## **22 Additional functions of Academic Board**

The Academic Board has such additional functions as may be prescribed by the rules.

## **23 Committees**

The Academic Board may establish such committees as it considers necessary to carry out its business and may establish terms of reference for such committees.

## **24 Quorum for meetings of Academic Board**

At any meeting of the Academic Board or its Committees, one half of the voting membership plus one constitutes a quorum.

# **Part 6 Rules**

## **25 Making of rules**

- (1) The Council is empowered to 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 By-laws may be made, except for those matters excluded under section 29 of the Act.
- (2) The Vice-Chancellor may, with the consent of the Council, make rules about any subject matter for or with respect to which the Council may make rules.

## **26 Publication of rules**

As soon as possible after a rule is made or amended, it must be submitted to the Council for ratification, and promulgated by publication in the University Handbook and on the website of the University.

### **Note—**

Section 29 (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.

## **27 Inconsistency between rules**

In the event of an inconsistency between rules, a rule of the Council will prevail to the extent of the inconsistency.

## **Part 7 Miscellaneous**

### **28 Repeal**

- (1) The *University of New England By-law* is repealed.
- (2) Any act, matter or thing that, immediately before the revocation of the By-law specified in subclause (1), had effect under that By-law is taken to have effect under this By-law.

## **Schedule 1 Procedures for the conduct of elections for members of the Council**

(Clause 13)

### **1 Application of this Schedule**

The procedures set out in this Schedule apply to and in respect of the election of members of the Council referred to in section 8D (1) (a), (b) or (c) or 8E (2) (a) of the Act.

### **2 Time periods relating to the conduct of elections**

In the conduct of an election referred to in this Schedule, the Returning Officer is to allow an interval:

- (a) between the publication of the notice referred to in clause 3 and the time prescribed for the receipt of nominations, of not less than 14 days, and
- (b) between the time prescribed for the receipt of nominations and the issue of voting papers, of not more than 28 days, and
- (c) between the issue of voting papers and the time by which voting papers must be received by the Returning Officer, of not less than 14 days and not more than 28 days.

### **3 Publication of notices**

- (1) Where an election for membership of the Council is necessary, the Returning Officer must publish a notice on notice boards in the University and on an electronic University notice board.
- (2) In the case of an election of an undergraduate or postgraduate student, the Returning Officer must advise external students by notice mailed or sent electronically to such students at the address on the relevant Roll.
- (3) A notice referred to in subclause (1) must:
  - (a) state that an election is necessary, and
  - (b) specify the class or classes of persons in the electorate, and

- (c) set out the number of vacancies to be filled, and
  - (d) provide a statement about the duties and obligations of Council members under the Act, and
  - (e) invite nominations for election, and
  - (f) specify the form in which nominations are to be made, and
  - (g) prescribe the date and time by which nomination papers must be received by the Returning Officer, and
  - (h) specify how voting will take place.
- (4) The notice may contain such other information relating to the election as the Returning Officer thinks fit.

#### **4 Nomination of candidates for election**

- (1) Nomination of a person as a candidate at an election referred to in this By-law is to be made by sending or delivering a nomination paper to the Returning Officer.
- (2) A nomination paper must:
  - (a) be signed by two persons entitled to vote at the election for which the person is nominated as a candidate, and
  - (b) be endorsed with, or accompanied by, the written consent of the person being nominated.
- (3) There is to be a separate nomination paper for each person nominated.
- (4) The Returning Officer must reject a nomination paper if the Returning Officer is satisfied that it is not made in accordance with this clause
- (5) A candidate nominated for election may not withdraw that nomination after the date and time prescribed under clause 3 (3) (g) of this Schedule.

#### **5 Necessity for elections to be held and conduct of the ballot**

- (1) Where, in an election of persons to whom this Schedule applies, the number of accepted nominations for the election does not exceed the number of vacancies to be filled, the Returning Officer must declare the person or persons nominated to be elected.
- (2) Where the number of accepted nominations for the election exceeds the number of vacancies to be filled, the Returning Officer must, either by electronic means or as hard copy, provide voting papers and a notice to each person:
  - (a) whose name is on the Roll of Academic Staff, in the case of an election of persons

referred to in section 8D (1) (a) of the Act, or

- (b) whose name is on the Roll of Non-Academic Staff, in the case of an election of a person referred to in section 8D (1) (b) of the Act, or
- (c) whose name is on the Roll of Undergraduate Students or on the Roll of Postgraduate Students, in the case of an election of a person referred to in section 8D (1) (c) of the Act.
- (d), (e) (Repealed)

(3) A notice referred to in subclause (2) must:

- (a) specify the manner in which the voting paper is to be completed, and
- (b) state the date and time by which the completed voting paper must be received by the Returning Officer.

(4) Where, before the declaration of the poll, a person:

- (a) who is nominated as a candidate for the election dies, or
- (b) becomes no longer eligible to be elected,

the election is to proceed as if the person had not been nominated and that person's name had not been included on the voting paper and any vote recorded in that person's favour had not been cast.

## **6 Manner of voting**

- (1) A voter must, subject to subclause (2), place a cross in the square appearing opposite the name of each candidate for whom that voter intends to vote.
- (2) A voter must not vote for more candidates than there are vacancies to be filled at the election.
- (3) If a voter votes for more candidates than there are vacancies to be filled at the election, the vote is informal.

## **7 Voting security**

- (1) Voting papers are to contain the names of candidates in random order determined by lot by the Returning Officer.
- (2) For voting papers issued in hard copy for an election referred to in section 8D or 8E of the Act, the following procedures are to be followed:
  - (a) an envelope marked "Voting Paper" and an envelope addressed to the Returning Officer are to be issued with the "Voting Paper",

- (b) each voter must:
    - (i) place the voting paper completed in accordance with clause 6 of this Schedule in the envelope marked "Voting Paper" and seal that envelope, and
    - (ii) place that sealed envelope in the envelope addressed to the Returning Officer, and
    - (iii) complete the form of declaration of identity and voting entitlement to be enclosed with the "Voting Paper" envelope in the outer envelope and seal the outer envelope, and
    - (iv) send by post or deliver the outer envelope containing the voting papers and declaration to the Returning Officer,
  - (c) on receipt of a sealed envelope addressed to the Returning Officer, the Returning Officer must open the outer envelope, and check the declaration with the relevant Roll keeping the declaration within the unsealed outer envelope,
  - (d) if the Returning Officer:
    - (i) is satisfied that the voter is qualified to vote in the election, the Returning Officer must place the outer envelope containing the voting paper and declaration in a ballot box and the voting paper envelope is to remain unopened until the close of the poll, or
    - (ii) is satisfied that the voter is not qualified to vote at the election, the Returning Officer must place the envelope in a receptacle for rejected voting papers and the envelope is to be destroyed forthwith after the declaration of the poll,
  - (e) after the close of the poll, the Returning Officer or persons appointed by the Returning Officer for the purpose, must open the voting paper envelopes placed in the ballot box and the Returning Officer must ascertain the result of the election in accordance with clause 9 of this Schedule.
- (3) For voting papers issued electronically, the Council must be satisfied that the process of voting is secure, such that:
- (a) only those persons eligible to vote do vote, and
  - (b) a voter is able to vote once and once only, and
  - (c) after assessing the eligibility of the voter to vote, the identity of the voter is separated from their vote, and
  - (d) the votes are stored securely to ensure an accurate count.

## 8 Voting conduct

The Returning Officer must:

- (a) not accept a vote unless the Returning Officer is satisfied that it has been cast by a person entitled to vote at the election and that the voter has only voted once at that election, and
- (b) not accept a vote unless it is received by the Returning Officer before the close of the poll, and
- (c) decide whether any vote is to be accepted or rejected, and
- (d) on written application made to the Returning Officer that a voting paper has been lost or destroyed, supply a duplicate voting paper to the person to whom the lost or destroyed voting paper was sent or delivered if the Returning Officer is satisfied that the voting paper was so lost or destroyed.

## 9 Counting of votes

- (1) In this clause, ***continuing candidate***, in relation to any count, means a candidate not already declared elected.
- (2) The result of the ballot is to be ascertained by the Returning Officer in accordance with the following provisions:
  - (a) the Returning Officer must examine the votes and reject those which do not comply with the requirements of this By-law,
  - (b) the Returning Officer must then count the total number of votes given to each candidate,
  - (c) the candidate polling the highest number of votes is to be declared elected,
  - (d) where the number of candidates to be elected is more than one, the candidate polling the next highest number of votes after the first candidate declared elected pursuant to paragraph (c) is also to be declared elected and the process of electing the candidate with the highest number of votes from the continuing candidates is to be continued until the number of vacancies has been filled.
- (3) If the total number of votes received by two or more candidates for any vacancy is equal and it is necessary to exclude one or more of them in respect of that vacancy, the Returning Officer must:
  - (a) write the names of each candidate in respect of whom the determination is to be made on separate and similar slips of paper, and
  - (b) fold the slips so as to prevent identification, and

- (c) place the folded slips in a receptacle and mix them together, and
- (d) draw out a slip at random, and
- (e) declare elected the candidate whose name appears on the slip drawn out.

#### **10 Scrutineers**

Each candidate at an election is entitled to nominate one scrutineer to be present at the count of votes.

#### **11 Votes not to be disclosed**

A person must not in any way disclose or aid in disclosing the manner in which any voter has voted.

**Note—**

An election is to be conducted by secret ballot (clause 13 of this By-law).