

University of Technology Sydney By-law 2005

[2005-642]



New South Wales

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University of Technology Sydney By-law 2005



New South Wales

Part 1 Preliminary

1 Name of By-law

This By-law is the *University of Technology Sydney By-law 2005*.

2 Application

This By-law applies to and in respect of the University of Technology Sydney, as established by the *University of Technology Sydney Act 1989*.

3 Definitions

(1) In this By-law and in a rule:

Academic Board means the Academic Board established under section 15 of the Act.

Chancellor means the Chancellor of the University.

close of nominations, in relation to a Council election, means the date and time (as specified in the election rules) by which nominations for the election must be received by the Returning Officer.

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

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

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

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

election rules means rules made by the Council for or with respect to matters referred to in section 29 (1A) of the Act.

rule means a rule made under section 29 (1) of the Act.

student means a person enrolled as a candidate proceeding to a degree, diploma or other award course of the University, and includes both an undergraduate student and a postgraduate student.

the Act means the [University of Technology Sydney Act 1989](#).

University Secretary means the University Secretary of the University.

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

Vice-Chancellor means the Vice-Chancellor of the University.

- (2) For the purposes of this By-law, a person is a **continuing or fixed-term member** of staff of the University if, regardless of whether the person is employed on a full-time or part-time basis, the person's conditions of employment by the University do not attract a casual loading.
- (3) (Repealed)
- (4) In the absence of a person who has been appointed to an office in the University by virtue of some other office held by him or her, whether in the University or elsewhere, any person acting in that other office holds that appointment ex officio, unless the Council resolves otherwise.
- (5) Notes included in this By-law are not part of this By-law.

Part 2 The Council

Division 1 The Chancellor

4 Term of office of Chancellor

For the purposes of section 10 (2) of the Act, the term of office of the Chancellor is 4 years from the date of his or her election.

Division 2 Elected members of Council

Subdivision 1 Preliminary

5 Returning Officer

- (1) An election referred to in this Division is to be conducted by a person appointed by the Council to be the Returning Officer for the election.
- (2) The Returning Officer may appoint a Deputy Returning Officer (with such powers as the Returning Officer may determine) and other persons to assist the Returning Officer

in the conduct of all or any part of an election referred to in this Division.

- (3) The Returning Officer's decision is, subject to the Act and this By-law, final on all matters affecting the eligibility of candidates, the standards of behaviour expected during elections and election campaigns, the conduct and results of an election and such other matters as may from time to time affect the conduct of elections.

6 Rolls

- (1) The Returning Officer is to keep the following:
- (a) for the purposes of section 8D (1) (a) of the Act—a Roll of Academic Staff containing the names and last known email addresses (or, if no email address is known in a particular case, last known address) of those persons who are continuing or fixed-term members of the academic staff of the University,
 - (b) for the purposes of section 8D (1) (b) of the Act—a Roll of Professional Staff containing the names and last known email addresses (or, if no email address is known in a particular case, last known address) of those persons who are continuing or fixed-term members of the professional staff of the University,
 - (c) for the purposes of section 8D (1) (c) of the Act—a Roll of Undergraduate Students containing the names and last known email addresses (or, if no email address is known in a particular case, last known address) of those persons enrolled in courses that are listed in the register of undergraduate courses of the University with a minimum duration of one year full-time or equivalent,
 - (d) for the purposes of section 8D (1) (c) of the Act—a Roll of Postgraduate Students containing the names and last known email addresses (or, if no email address is known in a particular case, last known address) of those persons enrolled in courses that are listed in the register of postgraduate courses of the University with a minimum duration of one year full-time or equivalent.
- (2) A person who is both a student and a continuing or fixed-term member of the academic or professional staff of the University is not entitled to have the person's name entered on either of the Rolls referred to in subclause (1) (c) and (d).

Subdivision 2 Provisions relating to candidates and voters

7 Qualification for elected (academic staff) member

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (academic staff) member, the prescribed qualification is that the person's name is entered on the Roll of Academic Staff.

8 Qualification for election as elected (professional staff) member

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (professional

staff) member, the prescribed qualification is that the person's name is entered on the Roll of Professional Staff.

9 Qualification for election as elected (undergraduate student) member

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (student) member who is an undergraduate student of the University, the prescribed qualifications are that:

- (a) the person's name is entered on the Roll of Undergraduate Students, and
- (b) at the close of nominations for the election, the person has at least 2 years full-time study (or equivalent) remaining until completion of the person's course at the university.

Note—

See clause 29 (2A) for elections to fill casual vacancies.

10 Qualification for election as elected (postgraduate student) member

For the purposes of section 8D (3) (a) of the Act, in respect of an elected (student) member who is a postgraduate student of the University, the prescribed qualifications are that:

- (a) the person's name is entered on the Roll of Postgraduate Students, and
- (b) at the close of nominations for the election, the person has at least 2 years full-time study (or equivalent) remaining until completion of the person's course at the university.

Note—

See clause 29 (2A) for elections to fill casual vacancies.

Subdivision 3 Ballot

11 Conduct of ballot

A ballot for a Council election must be a secret ballot conducted in accordance with the election rules.

12 Method of voting

- (1) The method of voting for a Council election is optional preferential voting.
- (2) To cast a formal vote, voters indicate the name of their preferred candidate with the figure "1".
- (3) Voters may use consecutive figures (starting with the figure "2") to indicate their order of preference for the remaining candidates.

13 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, any person appointed by the Returning Officer or any scrutineer must not in any way disclose or aid in disclosing the manner in which any voter has voted.

Subdivisions 4-6

14-27I (Repealed)

Subdivision 7 Miscellaneous

28 Term of office of elected members of Council

- (1) For the purposes of section 9 (1) (c) of the Act, a member of Council elected under section 8D (1) (a), (b) or (c) of the Act holds office for 2 years.
- (2) For the purposes of section 9 (1) (d) of the Act, a member of Council elected under section 8E of the Act holds office for 2 years.

29 Casual vacancy in office of elected member of Council

- (1) In the event that a casual vacancy in the office of a member of the Council elected under section 8D (1) (a), (b) or (c) of the Act occurs:
 - (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
 - (b) if the remainder of that member's term of office is or exceeds half of the term of office, the Returning Officer is to conduct an election among those persons qualified to vote at such an election in accordance with the Act and this By-law to fill the vacancy for the balance of the term of office.
- (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.
- (2) An election referred to in subclause (1) (b) is to be conducted as soon as practicable after the vacancy occurs (or, in a case to which clause 30 applies, from some earlier time in accordance with that clause).
- (2A) Despite clauses 9 (b) and 10 (b), the prescribed qualification for a person in an election referred to in subclause (1) (b) in respect of an elected (student) member is

that, at the close of nominations for the election, the period of full-time study (or equivalent) remaining until completion of the person's course at the university exceeds the balance of the term of office concerned.

(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.

30 Election in anticipation of resignation

- (1) Any member of the Council who intends to resign in circumstances that would create a vacancy to which clause 29 (1) (b) would apply if the resignation took effect as intended is under a duty to notify the Returning Officer as soon as practicable of:
 - (a) his or her intention to resign, and
 - (b) the date from which the resignation is intended to take effect.
- (2) On receipt of any such notification the Returning Officer, even though the resignation has not taken effect, may in accordance with the election rules proceed to conduct an election to fill the anticipated vacancy.
- (3) The election of a new member of the Council in accordance with subclause (2) does not take effect until after the incumbent member's resignation takes effect.

Division 3 Appointed members of Council

31-33 (Repealed)

34 Nominations procedure relating to appointments under sections 8F and 8G

- (1) At least 3 months before the term of office of a member of the Council appointed under section 8F or 8G of the Act is due to expire, a Nominations Committee established by the Council is to identify persons who may be suitable for appointment as such a member.
- (2) The Committee is:
 - (a) to determine which of those persons are to be recommended to the Council:
 - (i) for suggestion 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 such person, and

- (c) to forward those recommendations to the Council at least 2 months before the relevant term of office is due to expire.
- (3) In determining the persons to be recommended under subclause (2) (a), the Committee is to have regard to:
 - (a) the skills and experience of the continuing members of the Council, and
 - (b) the skills and experience that will be needed for the Council as a whole (taking into account the matters referred to in section 8C of the Act), and
 - (c) such other matters as the Committee considers relevant.
- (4) 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 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.
- (5) The Chancellor is to forward the determinations referred to in subclause (4) (b) (i) and (c) (i) to the Minister.
- (6) The Council is to make the determinations referred to in subclause (4) at least 1 month before the relevant term of office is due to expire.
- (7) The Council may make the determinations referred to in subclause (4) only at a meeting of the Council:
 - (a) convened by the University Secretary, and
 - (b) of which the University Secretary has given each member of the Council at least 7 days' notice.
- (8) The notice referred to in subclause (7) (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.

(9) A failure to comply with a time limit specified in this clause does not affect the validity of a suggestion or an appointment.

35 (Repealed)

36 Casual vacancy in the office of an appointed member of Council

(1) If a casual vacancy occurs in the office of a member of Council appointed under section 8F or 8G of the Act, the Chancellor is to forward to the Minister for consideration for appointment the name of a person nominated in accordance with the procedures set out in clause 34 in respect of such an office.

(2) (Repealed)

(3) The time limits specified in clause 34 may be disregarded for the purposes of this clause.

Part 3 Membership of Convocation

37 Graduates of University

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

- (a) an associate diploma or certificate received on completion of a course with a minimum duration of one year full-time or its equivalent,
- (b) an honorary degree.

38 Prescribed staff members of Convocation

For the purposes of section 14 (1) (c) of the Act, Convocation includes persons who are continuing or fixed-term members of the academic or professional staff of the University.

39 Prescribed additional members of Convocation

In addition to the persons on whom membership is conferred by the Act or this Part, Convocation includes the following:

- (a) past members of the Councils of any of the predecessors of the University and of the Councils of the Kuring-gai College of Advanced Education and the Sydney College of Advanced Education, including past members of the governing bodies of the predecessors of each of those institutions,
- (b) those persons who have been admitted to membership of Convocation by virtue of section 14 (1) (c) of the Act and who have ceased employment after serving for not less than 5 years as members of the staff of the University,

- (c) Professors Emeriti and recipients of honorary awards of the University, if not otherwise members of Convocation,
- (d) such other persons as are considered by the Council to have given conspicuous service to the University or to be specially qualified to advance the interests of the University and who are admitted, by resolution of Council, as members of Convocation.

40 Exemption from membership

The Council may exempt any person, on grounds of conscience, from membership of Convocation.

Part 4 Rules

41-43 (Repealed)

44 Rules made by Council

The Council may make rules for or with respect to any or all of the matters for or with respect to which rules may be made under the Act.

Note—

Section 29 (1) of the Act provides that the by-laws may empower any authority (including the Council) 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), 8B, 8D, 8E and 8F (2), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) of the Act and clauses 1 (1) (c) and (d) and 3 of Schedule 1 to the Act.

45 (Repealed)

46 Promulgation of rules

- (1) A rule must be promulgated by publication on the University website.
- (2) The Council must ensure that all rules are publicly available for inspection on the University website.
- (3) Failure to comply with subclause (2) does not invalidate any rule.
- (4) (Repealed)

Part 5 Miscellaneous

46A Meetings and committees of Academic Board

The Academic Board may determine:

- (a) the manner and time of convening, holding and adjourning its meetings, and
- (b) the conduct of business and the manner of voting at its meetings, and

- (c) the establishment of committees of the Board and the quorum, powers and duties of such committees.

47 (Repealed)

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.

48 Repeal

- (1) The *University of Technology, Sydney, By-law 1995* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *University of Technology, Sydney, By-law 1995*, had effect under that By-law is taken to have effect under this By-law (but only to the extent that it relates to an 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-laws is taken to have been made pursuant to the corresponding provision of this By-law.
- (4) (Repealed)