

# University of Sydney By-law 1999

[1999-403]



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 Sydney By-law 1999



New South Wales

## Chapter 1 Preliminary

### 1 Name of By-law

This By-law is the *University of Sydney By-law 1999*.

### 2 Commencement

This By-law commences on 6 August 1999.

### 3 Definitions

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

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

**Nominations Committee** means the Committee established under clause 46A.

**official University notice board** means a notice board (including any electronic notice board) designated as such by the Senate.

**Registrar** means the Registrar of the University or a member of the staff of the University nominated by the Registrar to exercise any of the Registrar's functions under this By-law.

**rule** means a rule made under section 37 (1) of the Act.

**Secretary** means the Secretary to Senate of the University or a member of the staff of the University nominated by the Secretary to exercise any of the Secretary's functions under this By-law.

**student** means a person who is currently admitted to candidature in an award course of the University.

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

(2) In this By-law and in any rule, a reference to:

(a) a board, committee or other body established within the University means the

board, committee or other body established by that name within the University, and

- (b) an officer of the University means the incumbent of that position from time to time (including any person acting in that capacity), and
- (c) a reference to a chair of a board, committee or other body established within the University means the incumbent of that office from time to time, and includes any person acting or deputising in that office.

#### **4 Notes**

The explanatory note and table of contents do not form part of this By-law.

## **Chapter 2 Making rules**

### **5 Who may make rules**

- (1) The Senate may make rules, not inconsistent with the Act or this By-law, for or with respect to any matter for which by-laws may be made, except those matters referred to in section 37 (1) of the Act.
- (2) The Vice-Chancellor may make rules, not inconsistent with the Act or this By-law, for or with respect to the direction and management of the administrative, financial and other business of the University.
- (3) The University Librarian may make rules, not inconsistent with the Act or this By-law, for or with respect to any matter concerning the management of any University library, including:
  - (a) conditions of use or borrowing of library items or facilities, and
  - (b) the imposition or payment of penalties in connection with library items or facilities, and
  - (c) determining the category or categories of persons eligible to borrow items or use facilities of a University library.
- (4) The Academic Board may make rules, not inconsistent with the Act or this By-law, for or with respect to the meeting procedures of the Academic Board.

### **6 How rules must be promulgated**

- (1) A rule must be displayed on all official University notice boards for at least twenty-four hours after it is made.
- (2) A rule must also be published in at least one official publication of the University.
- (3) Failure to comply with subclause (1) or (2) does not invalidate a rule.

## **7 Inconsistency between rules**

- (1) If there is any inconsistency between a rule made by the Senate and a rule made by another person or body empowered to make rules under this By-law, then the rule made by the Senate prevails to the extent of that inconsistency.
- (2) If there is any inconsistency between a rule made by the Vice-Chancellor and a rule made by the University Librarian, then the rule made by the Vice-Chancellor prevails to the extent of that inconsistency.

## **8 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) Any amendment or repeal of a rule must be promulgated in the manner prescribed in clause 6.

# **Chapter 3 Chancellor and Deputy Chancellor**

## **Division 1 Chancellor**

### **9 Term of office and election procedure**

- (1) An election to the office of Chancellor must take place at an ordinary meeting of the Senate and be held in accordance with those procedures prescribed by resolution of the Senate for an election to the office of Chancellor.
- (2) The Chancellor holds office for a term of 4 years from the date of election and is eligible for re-election.

### **10 Casual vacancies**

- (1) If a casual vacancy in the office of Chancellor occurs, the Senate must elect a successor no later than at the second ordinary meeting of the Senate after that vacancy occurs in accordance with any procedures prescribed by resolution of the Senate for an election to the office of Chancellor.
- (2) A person elected under this clause holds office for a term of 4 years from the date of election and is eligible for re-election.
- (3) The Deputy Chancellor is to act as the Chancellor from the date on which the casual vacancy occurs until the date on which a successor to the Chancellor is elected under this clause.



## **Division 2 Deputy Chancellor**

### **11 Term of office and election procedure**

- (1) Subject to section 11 of the Act, an election to the office of Deputy Chancellor must take place at an ordinary meeting of the Senate held:
  - (a) in February 2000, and
  - (b) in February of every second year after that year.
- (2) The Deputy Chancellor holds office until his or her successor is elected, and is eligible for re-election.
- (2A), (2B) (Repealed)
- (3) Elections for Deputy Chancellor are to be held in accordance with those procedures prescribed by resolution of the Senate for election to the office of Deputy Chancellor.

### **12 Casual vacancies**

- (1) If a casual vacancy in the office of Deputy Chancellor occurs, the Senate must elect a successor in accordance with those procedures prescribed by resolution of the Senate for election to the office of Deputy Chancellor.
- (2) A person elected under this section holds office from the date of election and for the balance of the term of office of the preceding Deputy Chancellor.

## **Division 3 Miscellaneous**

### **13 Chancellor may preside at meetings**

- (1) The Chancellor may preside at any meeting of:
  - (a) a committee established by this By-law or by a rule or resolution of the Senate, or
  - (b) a faculty or board within the University,and, while so presiding, has the powers and duties of the presiding officer of (as the case may be) that committee, faculty or board.
- (2) If:
  - (a) the Chancellor is not present at a meeting, or does not wish or is unable to preside at the meeting, or
  - (b) the office of Chancellor is vacant,the Deputy Chancellor may preside at the meeting and has the same powers and duties as the Chancellor has when doing so.

## 14 (Repealed)

# Chapter 4 Election of Fellows of the Senate

## Division 1 Preliminary

### 15 Definitions

In this Chapter:

**absolute majority of votes** means an amount greater than 50% of valid votes.

**closing date** of the ballot means:

- (a) in the case of a postal ballot, the date and time by which ballot papers must be returned to the returning officer, and
- (b) in the case of an electronic ballot, the date and time by which the electronic ballot form must be submitted to the returning officer via the election website.

**election** means an election held for the purposes of section 8D (1) or 8E (2) (a) of the Act.

**election website** means a secure internet site approved or managed by the returning officer for the purposes of an electronic ballot.

**electronic ballot** means a ballot conducted in accordance with Division 5B.

**electronic vote** means a vote cast in an electronic ballot by means of an electronic ballot form.

**exhausted ballot paper** means a ballot paper or an electronic vote containing votes which can no longer be allocated according to the procedure in (as the case may be) Division 6 or 7, and which is to be set aside as having been finally dealt with.

**notice of ballot** means a notice of an election given by the returning officer under clause 27.

**postal ballot** means a ballot conducted in accordance with Division 5A.

**primary votes** means:

- (a) in the case of elections to fill one position only under Division 6—votes on ballot papers or electronic votes marked “1”, and
- (b) in the case of elections to fill more than one position under Division 7—votes on a ballot paper or an electronic vote marked “1”, “2” and so on up to the number of positions to be filled.

**roll** means a roll established by the returning officer in accordance with clause 17.

**secondary vote** means the first preference vote beyond the primary votes.

## **16 Returning officer**

- (1) The Secretary is the returning officer for all elections.
- (1A) The returning officer is to take all reasonable steps to ensure the fairness and integrity of the election process.
- (2) 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.
- (3) The returning officer may authorise another person to exercise any function of the returning officer under this By-law. Any function exercised by that authorised person is taken to have been exercised by the returning officer.

## **Division 2 Rolls and provisional voting**

### **16A Definition**

In this Division, **address** includes both residential address and email address.

### **17 Rolls**

- (1) The returning officer must, for the purposes of elections, establish and maintain separate Rolls for each of the following categories:
  - (a) a Roll of academic staff containing the names and addresses of the full-time and part-time members of the academic staff of the University,
  - (b) a Roll of non-academic staff containing the names and addresses of the full-time and part-time members of the non-academic staff of the University,
  - (c) a Roll of undergraduate students containing the names and addresses of persons enrolled in an undergraduate award course of the University,
  - (d) a Roll of postgraduate students containing the names and addresses of persons enrolled in a postgraduate award course of the University,
  - (e) a Roll of graduates containing the names and addresses of graduates of the University as defined in section 3 (2) of the Act.
- (2) For the purposes of subclause (1) (a) and (b), a person who is engaged as a casual member of the academic or non-academic staff is not entitled to have his or her name entered on the relevant Roll.
- (2A) 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 award course concerned.

- (3) A copy of the relevant Roll must be available for inspection at the office of the returning officer during the University's usual business hours for at least 14 days before the date on which the election is due to be held.
- (4) The returning officer is entitled to alter a Roll at any time by:
  - (a) correcting any mistake or omission in the details of any eligible voter entered on that Roll, or
  - (b) altering, on the written application of any eligible voter, the name or address of the person entered on that Roll, or
  - (c) removing the name of any deceased person, or
  - (d) removing the superfluous entry where the name of the same eligible voter appears more than once on the Roll, or
  - (e) reinstating the name of an eligible voter removed from the Roll, where the returning officer is satisfied that such person is still entitled to be entered on the relevant Roll.
- (5) Notwithstanding subclause (4), a Roll is not invalid because any one or more of the following events occurs in connection with that Roll:
  - (a) the Roll contains any mistake or omission in the details of any eligible voter entered on that Roll,
  - (b) the Roll contains the name of any deceased person,
  - (c) the Roll contains more than one entry for the same eligible voter,
  - (d) the Roll does not contain the name of any person entitled to be entered on that Roll.

## **18 Provisional voting**

- (1) This clause applies to a person who claims he or she is entitled to vote in an election even though:
  - (a) the person's name cannot be found on the Roll for the election for which the person is claiming an entitlement to vote, or
  - (b) the person's name is on the Roll for the relevant election, but his or her address is incorrect, or does not appear on that Roll, or
  - (c) a mark on the Roll used in that election indicates incorrectly that the person has

already voted in that election.

(2) A person to whom this clause applies may cast a provisional vote if:

(a) the person makes a request to the returning officer to do so, and

(b) the person complies with the provisions of clause 36 or 36D, as the case requires.

### **Division 3 Qualifications for election and terms of office**

#### **19 Academic staff Fellow**

A person is qualified to be elected as an elected (academic staff) member of the Senate if that person's name appears on the Roll of academic staff members at the time for close of nominations specified in the notice of ballot.

#### **20 Non-academic staff Fellow**

A person is qualified to be elected as an elected (non-academic staff) member of the Senate if that person's name appears on the Roll of non-academic staff members at the time for close of nominations specified in the notice of ballot.

#### **21 Undergraduate student Fellow**

A person is qualified to be elected as an elected (student) member of the Senate, as an undergraduate student, if:

(a) the person's name appears on the Roll of undergraduate students, and

(b) the person's name does not appear on the Roll of academic or non-academic staff, at the time for close of nominations specified in the notice of ballot.

#### **22 Postgraduate student Fellow**

A person is qualified to be elected as an elected (student) member of the Senate, as a postgraduate student, if:

(a) the person's name appears on the Roll of postgraduate students, and

(b) the person's name does not appear on the Roll of academic or non-academic staff, at the time for close of nominations specified in the notice of ballot.

#### **23 (Repealed)**

#### **24 Terms of office**

For the purposes of section 9 (1) (c) of the Act, the term of office of an elected member is 2 years.

## **Division 4 Commencement of election procedures**

### **25 Time intervals for different stages of the election process**

In any election, there must be:

- (a) no less than 14 days between the date on which publication of a notice of ballot occurs and the date on which nominations close, and
- (b) no more than 28 days between the date on which nominations close and the date of issue of ballot material, being:
  - (i) in the case of a postal ballot, the date of issue of ballot papers by the returning officer, and
  - (ii) in the case of an electronic ballot, the date on which instructions on how to access the electronic ballot and complete an electronic ballot form are sent to voters by the returning officer, and
- (c) no less than 14 days between the date of issue of ballot material and the closing date of the ballot.

### **26 Manner of conducting ballot**

- (1) Each election must be conducted by a postal ballot or an electronic ballot.
- (2) The returning officer may decide whether the election is to be conducted by a postal ballot or an electronic ballot.
- (3) In the case of an electronic ballot, the returning officer may make alternative arrangements for eligible voters who are unable to take part in an electronic ballot to vote in the election.
- (4) If there is any technical malfunction in respect of an electronic ballot, the returning officer may determine that the election is to be held again by a postal ballot or another electronic ballot.

### **27 Notice of ballot**

- (1) A notice of ballot for election of a Fellow must be published by displaying a copy of the notice of ballot on all official University notice boards.
- (2) A notice of ballot must specify the following:
  - (a) that an election is necessary to a particular office,
  - (b) the category or categories of persons who are eligible for election,
  - (c) the number of vacancies to be filled in each category,

- (d) the term of office of each category,
- (e) an invitation for nominations for election,
- (f) the form in which nominations must be made,
- (g) the date and time when nominations close,
- (h) who is eligible to vote in the election,
- (i) whether the election is to be conducted by a postal ballot or an electronic ballot,
- (j) the closing date of the ballot,
- (k) the method of election,
- (l) any other information about the election that the returning officer decides is appropriate to be included,
- (m) that the election procedures can be found in this Chapter of the By-law.

## **28 Nominating candidates**

- (1) A separate nomination form must be completed for each nominee and for each category in which that person is nominated.
- (2) Each person who nominates another for election must be eligible to vote in that election. A person cannot nominate himself or herself for election.
- (3) Each nomination form must contain:
  - (a) a statement to the effect that section 26F of the Act provides that each Fellow has the duties set out in Schedule 2A of the Act and may be removed from office by the Senate in accordance with section 26G of the Act for a breach of such a duty, and
  - (b) an acknowledgment to be signed by the person nominated that the person has read sections 26F and 26G of, and Schedule 2A to, the Act and understands the effect of those provisions.
- (3A) Each nomination form must contain the written consent of the person nominated and an acknowledgment (as referred to in subclause (3) (b)) signed by the person nominated.
- (4) A person cannot nominate more than one person in any election. If this occurs, the returning officer is to treat the first signed nomination form received as the valid nomination for that election.
- (5) At the time of nomination, the nominee may provide a statement of no more than 100

words containing any of the following information:

- (a) the nominee's name,
- (b) current occupation or position,
- (c) if a student, the current course and year of enrolment,
- (d) academic qualifications,
- (e) honours and distinctions,
- (f) employment experience,
- (g) any other information the nominee thinks relevant.

(6) The returning officer may edit any information provided by a nominee under subclause (5). Edited statements are to be provided to voters.

### **29 Nominations**

Each nomination for the election of a Fellow must be proposed in the nomination form by at least 2 persons who are eligible to vote in the relevant election.

### **30 Deadline for close of nominations**

Nominations for any election close at 12.00 noon on the date specified in the notice of ballot.

### **31 Receiving nominations**

The returning officer must reject a nomination paper if satisfied that the nomination does not comply with the requirements of any of clauses 28, 29 or 30. If a nomination is rejected, then the returning officer must, within seven days of receiving that nomination, send or deliver a notice to each person who has signed or endorsed that nomination paper that the nomination has been rejected.

### **32 Dealing with nominations**

- (1) If the number of nominations received is less than or equal to the number of positions to be filled, the returning officer must declare those nominees elected.
- (2) If the number of nominations received is greater than the number of positions to be filled, the returning officer must conduct an election in accordance with Divisions 5 and (as the case may be) 6 or 7.



## **Division 5 Conduct of ballot—general**

### **33 Death or ineligibility of candidates**

If, before the closing date of a ballot, a candidate at the election dies or becomes no longer eligible for election, the election must proceed as if:

- (a) the candidate was not nominated for election, and
- (b) the candidate's name did not appear on the list of candidates for election, and
- (c) any vote for that person was not cast.

### **34 Secret ballots**

- (1) An election must be conducted by secret ballot.
- (2) A person involved in administering the conduct of an election (including any scrutineer appointed under clause 38) must not disclose or assist another person to disclose any information as to how a person voted at that election.

## **Division 5A Conduct of postal ballot**

### **34A Application of Division**

This Division applies if the returning officer decides to conduct an election by postal ballot.

### **35 Preparing and sending ballot papers**

- (1) The returning officer must prepare ballot papers that contain:
  - (a) instructions for completing the voting paper, and
  - (b) the names of all candidates for election, arranged in an order determined by drawing lots, and
  - (c) a box opposite and to the left of the name of each candidate.
- (2) The returning officer must send the following to each voter on the relevant Roll, at the voter's address as listed on the Roll:
  - (a) a ballot paper prepared in accordance with subclause (1),
  - (b) a notice describing:
    - (i) how the ballot paper must be completed, and
    - (ii) the closing date of the ballot, and
    - (iii) the address where the ballot paper is to be returned to the returning officer,

- (c) a summary of information about each candidate, if provided under clause 28 (5),
- (d) a declaration form requiring the voter to state his or her name and that he or she is eligible to vote,
- (e) 2 envelopes, one marked "Voting Paper" and the other a returning envelope addressed to the returning officer.

### **36 Marking and returning ballot papers**

- (1) Voters must vote by marking the ballot paper with the numbers 1, 2, 3 and so on, next to the name of each candidate, in order of preference.
- (2) Voters:
  - (a) must express their order of preference for a number of candidates at least equal to the number of vacancies to be filled, and
  - (b) may express their order of preference for as many of the other candidates as have been nominated.
- (3) Voters must, after completing the ballot paper:
  - (a) enclose and seal that ballot paper in the envelope marked "Voting Paper", and
  - (b) enclose and seal that envelope in the returning envelope addressed to the returning officer, together with the signed declaration of eligibility to be given under clause 35 (2) (d), and
  - (c) send by post or deliver the envelope to the returning officer so that the returning officer receives it no later than the closing date of the ballot.
- (4) The returning officer must ensure that all ballot papers received are stored securely until the counting of votes begins in accordance with (as the case may be) Division 6 or 7.

## **Division 5B Conduct of electronic ballot**

### **36A Application of Division**

This Division applies if the returning officer decides to conduct an election by electronic ballot.

### **36B Providing ballot material to voters**

The returning officer must send to each voter on the relevant Roll, at the voter's email or residential address, instructions on how to access the electronic ballot and complete an electronic ballot form, including the internet address of the election website.

### **36C Election website**

- (1) An election website is to be established for the purposes of an electronic ballot.
- (2) The election website must include the following:
  - (a) instructions on how to vote, including the closing date of the ballot,
  - (b) a summary of information about each candidate, if provided under clause 28 (5),
  - (c) the names of all candidates for election arranged in an order determined by drawing lots.
- (3) The election website may require voters to verify their eligibility to vote and their identity.

### **36D Completing and submitting electronic ballot forms**

- (1) Voters must vote by completing the electronic ballot form on the election website, in accordance with the instructions on the election website, so as to indicate their preference for the candidates.
- (2) Voters:
  - (a) must express their order of preference for a number of candidates at least equal to the number of vacancies to be filled, and
  - (b) may express their order of preference for as many of the other candidates as have been nominated.
- (3) Voters must, after completing the electronic ballot form, submit it to the returning officer by following the prompts on the election website.
- (4) The returning officer must ensure that any electronic database or retrieval system containing electronic votes is kept secure until the counting of votes begins in accordance with Division 6 or 7 (as the case requires).

## **Division 5C Procedures after election is conducted**

### **37 Election not invalidated because of certain errors**

- (1) An election is not invalid because of any one or more of the following:
  - (a) any one or more of the events described in clause 17 (5) occurs,
  - (b) an eligible voter did not see a notice of ballot,
    - (b1) in the case of a postal ballot—an eligible voter did not receive a ballot paper,
    - (b2) in the case of an electronic ballot—an eligible voter could not access the election

website,

(c) an eligible voter's vote has not been accepted at the election.

(2) Notwithstanding subclause (1) and without limiting any of the returning officer's other powers, the returning officer may at any time declare an election invalid because, in his or her opinion, one or more of the events described in that subclause has materially affected, or is likely to materially affect, the outcome of that election.

### **38 Scrutineers**

(1) Each candidate for election may appoint one person to be present as that candidate's scrutineer at any counting of votes for that election. Any appointment under this clause must be in writing, signed by the candidate, and given to the returning officer before counting of votes commences.

(2) A candidate for election is not eligible to be a scrutineer.

(3) In the case of a postal ballot, a scrutineer may inspect any ballot paper provided that, in the opinion of the returning officer, that scrutiny does not delay the counting of votes unreasonably.

(4) In the case of an electronic ballot, a scrutineer may inspect any report or record from any electronic database or retrieval system containing electronic votes used in the electronic ballot, provided that, in the opinion of the returning officer, that scrutiny does not delay the counting of votes unreasonably.

### **39 Informal votes**

(1) In the case of a postal ballot, a ballot paper is informal if, and only if that ballot paper:

(a) contains any mark or writing that, in the opinion of the returning officer, enables any person to identify the voter, or

(b) is not validated by the returning officer, or

(c) in the opinion of the returning officer, contains no vote, or does not include a vote for a number of candidates at least equal to the number of vacancies to be filled.

(2) In the case of an electronic ballot, an electronic vote is informal if, and only if, in the opinion of the returning officer, it does not include a vote for a number of candidates at least equal to the number of vacancies to be filled.

### **40 Tally sheet to be kept**

(1) The returning officer must keep a tally sheet (in either electronic or hard copy form) for each ballot containing the following information:

(a) total number of ballot papers or electronic votes,

(b) total number of informal ballot papers or electronic votes,

(c) a list of candidates,

(d) primary votes allocated to each candidate,

(e) secondary votes allocated to each candidate,

(f) exhausted ballot papers,

(g) progressive total votes for each candidate.

(2) At each stage of counting, the total number of votes divided by the number of candidates to be elected must correspond with the total number of formal ballot papers or electronic votes (including exhausted ballot papers).

## **Division 6 Procedures for election to fill one position only**

### **41 Counting votes**

In an election to fill one position only, the returning officer must follow the following procedure for counting votes, in the order specified:

(a) exclude all informal ballot papers or electronic votes,

(b) count the primary votes for each candidate on the formal ballot papers or electronic votes,

(c) enter the total number of primary votes for each candidate next to that candidate's name on the tally sheet,

(d) if a candidate receives an absolute majority of primary votes, declare that candidate elected,

(e) if no candidate receives an absolute majority of primary votes, distribute secondary votes according to paragraphs (f) to (l) inclusive until one candidate receives an absolute majority of votes,

(f) exclude the candidate with the fewest primary votes,

(g) for each ballot paper or electronic vote where the excluded candidate received a primary vote, allocate the next active secondary vote to the remaining candidates,

(h) indicate on the tally sheet the excluded candidate and that the next active secondary vote has been allocated,

(i) add together the primary votes and the allocated secondary votes for each remaining candidate, and exclude the candidate with the lowest number of total votes,

(j) if, after the exclusion of a candidate, the next active secondary vote is to an excluded

candidate, disregard that secondary vote and distribute the next active secondary vote,

- (k) repeat the process described in paragraphs (f) to (j) inclusive until one candidate receives an absolute majority of votes,
- (l) if on any count, 2 or more candidates have an equal number of votes, and that number is the lowest on that count, the returning officer must:
  - (i) eliminate the candidate with the lowest number of primary votes, or
  - (ii) if the number of primary votes is equal, in the presence of any scrutineers present, draw lots with the candidate drawn first remaining in the ballot.

## **Division 7 Procedures for election to fill more than one position**

### **42 Counting votes**

In an election to fill more than one position, the returning officer must follow the following procedure for counting votes, in the order specified:

- (a) exclude all informal ballot papers or electronic votes,
- (b) count the primary votes for each candidate on the formal ballot papers or electronic votes,
- (c) enter the total number of primary votes for each candidate next to that candidate's name on the tally sheet,
- (d) exclude the candidate with the fewest primary votes,
- (e) for each ballot paper or electronic vote where the excluded candidate received a number 1 vote, allocate the next active secondary vote to the remaining candidates,
- (f) indicate on the tally sheet the excluded candidate and that the next active secondary vote has been allocated,
- (g) add together the primary votes and the allocated secondary votes for each remaining candidate and exclude the candidate with the lowest number of total votes,
- (h) if, after the exclusion of a candidate, the next active secondary vote indicates an excluded candidate, disregard that preference and allocate the next active secondary vote,
- (i) repeat the process described in paragraphs (d) to (h) inclusive until only the number of candidates required to fill the vacancies remain,
- (j) if on any count, 2 or more candidates have an equal number of votes and that number is the lowest on that count, the returning officer must:

- (i) eliminate the candidate with the lowest number of primary votes, or
  - (ii) if the number of primary votes is equal, in the presence of any scrutineers present, draw lots with the candidate first drawn remaining in the ballot,
- (k) in order to determine which candidate is next in order of preference:
- (i) the votes counted for any excluded candidate must not be considered further, and
  - (ii) the order of voters' preferences must be determined on the next available preference indicated on the ballot papers or electronic votes.

## **Division 8 Casual vacancies for elected Fellows**

### **43 Academic or non-academic staff Fellows**

- (1) If a casual vacancy in the office of a Fellow referred to in section 8D (1) (a) or (b) of the Act occurs on or before the last 6 months of the end of that Fellow's term of office:
  - (a) that vacancy must be filled by the candidate at the immediately preceding election who, in the vote counting process at the election, was the last remaining candidate for election aside from the person who was declared elected, and who remains eligible to be elected, or
  - (b) if there is no eligible candidate, an election must be held.
- (2) If a casual vacancy in the office of a Fellow referred to in section 8D (1) (a) or (b) of the Act occurs within the last 6 months of that Fellow's term, the Senate must fill the vacancy by appointing a person qualified to hold that office.

### **44 Undergraduate or postgraduate student Fellows**

- (1) If a casual vacancy in the office of a Fellow referred to in section 8D (1) (c) of the Act occurs within the first year of that Fellow's term, an election must be held.
- (2) If a casual vacancy in the office of a Fellow referred to in section 8D (1) (c) of the Act occurs within the last year of that Fellow's term, the Senate must fill the vacancy, by no later than the date of the second meeting of the Senate after that casual vacancy occurs, by appointing a person qualified to hold that office, and only after first consulting the relevant student body or bodies recognised by the Senate.

### **45 (Repealed)**

## **Division 9**

### **46 (Repealed)**

## **Chapter 4A Appointed Fellows of the Senate**

#### **46A Nominations Committee**

- (1) The Senate is to establish a Nominations Committee consisting of the following persons:
  - (a) the Chancellor,
  - (b) the Deputy Chancellor,
  - (c) the Vice-Chancellor,
  - (d) the Chair of the Academic Board,
  - (e) 3 Fellows who are external persons (within the meaning of Division 1 of Part 3 of the Act), appointed to the Committee by the Senate.
- (2) Despite subclause (1), the Nominations Committee may be constituted in accordance with a resolution of the Senate passed by a majority of the number of Fellows present and voting at a meeting of the Senate of which at least 7 days' notice has been given.

#### **46B Nominations procedure relating to appointed Fellows**

- (1) If the Senate is required to appoint a Fellow under section 8F, the Senate is to request the Nominations Committee to identify persons who may be suitable for appointment.
- (2) The Nominations Committee is:
  - (a) to recommend persons who may be suitable for appointment by the Senate, and
  - (b) to recommend the length of appointment for each such person, and
  - (c) to forward those recommendations to the Senate.
- (4) In determining the persons to be recommended under subclause (3) (a), the Nominations Committee is to have regard to:
  - (a) the skills and experience of the continuing Fellows, and
  - (b) the matters referred to in section 8C of the Act.
- (5) The Senate:
  - (a) is to consider the recommendations forwarded by the Nominations Committee, and
  - (b) is to determine which of the recommended persons are to be appointed and may select one or more other persons for appointment in place of one or more of the recommended persons, and
  - (c) is to determine the length of appointment of each such person.



- (6) The Senate is, when selecting a person for appointment other than a person recommended by the Nominations Committee, to have regard to the matters referred to in subclause (4) (a) and (b).

**46BA Procedure for suggesting Fellows to Minister for appointment**

- (1) The Senate may suggest to the Minister the names of persons (other than those nominated by the Senate in accordance with clause 46B) to be considered for appointment to the Senate by the Minister under section 8G of the Act.
- (2) For the purposes of making any such suggestion, the Senate may request the Nominations Committee to recommend to the Senate:
- (a) persons the Committee considers suitable for appointment, and
  - (b) the length of appointment for each such person.
- (3) In determining the persons to be recommended to the Senate, the Nominations Committee is to have regard to:
- (a) the skills and experience of the continuing Fellows, and
  - (b) the matters referred to in section 8C of the Act.
- (4) The Senate may, after considering the Nominations Committee's recommendations, suggest to the Minister the names of persons to be considered for appointment and the length of appointment for each such person.
- (5) If the Senate is considering suggesting to the Minister a person other than a person recommended by the Nominations Committee, the Senate is to have regard to:
- (a) the skills and experience of the continuing Fellows,
  - (b) the matters referred to in section 8C of the Act.
- (6) The Chancellor is to forward any suggestion by the Senate under this clause to the Minister.

**46C Casual vacancy in office of appointed Fellow**

- (1) If a casual vacancy occurs in the office of a Fellow appointed under section 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 46B in respect of such an office.
- (2) If a casual vacancy occurs in the office of a Fellow appointed under section 8F of the Act, the vacancy is to be filled in accordance with the procedures set out in clause 46B in respect of such an office.

## Chapter 5 Vice-Chancellor

### 47 Functions

- (1) The Vice-Chancellor is responsible for promoting the interests and furthering the development of the University.
- (2) The Vice-Chancellor is, under the Senate and subject to this By-law or any rule or resolution of the Senate, to:
  - (a) manage and supervise the administrative, financial and other business of the University, and
  - (b) collect and prepare for the Senate and Finance Committee of the Senate all information required by those bodies about the administration, finance and other business of the University, and
  - (c) consult with and advise the Senate and its committees, the Academic Board, and all other University boards, faculties, committees, professors and heads of department, and
  - (d) exercise general supervision over the staff and students of the University, and
  - (e) subject to any delegations of authority approved by the Senate, apportion administrative authority throughout the University, and
  - (f) exercise supervision over the discipline of the University, in accordance with and subject to any law or rule dealing with discipline or misconduct of staff or students, and
  - (g) give effect to this By-law, any rules, or any resolutions made, or reports adopted, by the Senate, and
  - (h) have such functions of the Senate as the Senate may, from time to time, delegate to the Vice-Chancellor.
- (3) The Vice-Chancellor:
  - (a) is, ex officio, a member of every board, faculty or committee, and
  - (b) may preside at any meeting of such board, faculty or committee.
- (4) Nothing in this Chapter affects the precedence or authority of the Chancellor or the Deputy Chancellor.
- (5) In this clause, **student** includes a person registered in a unit of study or course conducted by the University who is not admitted to candidature in an award course of the University.

#### **48 Acting Vice-Chancellor**

The Vice-Chancellor may appoint:

- (a) a Deputy Vice-Chancellor, or
  - (b) in the absence of a Deputy Vice-Chancellor, a Pro-Vice-Chancellor,
- as Acting Vice-Chancellor, when the Vice-Chancellor is absent from the University.

### **Chapter 6 Academic governance**

#### **49 Academic Board**

(1) The Academic Board:

- (a) is to comprise at least 18 members and (subject to this clause) to consist of the membership prescribed by rules made by the Senate, and
- (b) is to have the functions prescribed by rules made by the Senate, and
- (c) is to report directly to the Senate.

(2) Of the members of the Academic Board:

- (a) one is to be Chair and one is to be Deputy Chair, and
- (b) at least 9 are to be academic staff members, of whom at least 4 are to be professors, and at least 4 are not to be professors, and
- (c) at least 9 are to be enrolled students.

(3) For the purposes of section 17 of the Act, the Academic Board is prescribed as a body to which the Senate may delegate its functions.

#### **50 Definitions**

(1) In this Chapter:

**academic staff member** means a person who is employed as a member (other than a casual member) of the academic staff of the University.

**enrolled student** means a person (other than a person who is an academic staff member) who is enrolled as a student in an award course at the University.

(2) Expressions used in any rule relating to election procedures for the Academic Board have the same meaning as they have in this Chapter.

(3) In any election for the Academic Board, the question of whether a person is an academic staff member or an enrolled student is to be determined at the time of the close of nominations for the election concerned, as specified in the notice of ballot for

the election.

- (4) A person is not considered to be enrolled as a student in an award course unless the person has completed, to the satisfaction of the University, all requirements for enrolment or re-enrolment in the award course concerned.

## **51 (Repealed)**

## **Chapter 7 Convocation**

### **52 Standing Committee of Convocation**

There is to be a Standing Committee of Convocation which:

- (a) consists of the membership, and
- (b) has those functions, powers and procedures, prescribed by rules made by the Senate.

## **53 (Repealed)**

## **Chapter 8**

### **54-83 (Repealed)**

## **Chapter 9 Miscellaneous**

### **84 Repeal**

- (1) The *By-laws of the University of Sydney* are repealed.
- (2) Any act, matter or thing that immediately before the repeal of the *By-laws of the University of Sydney* had effect under the *By-laws of the University of Sydney* is taken to have effect under this By-law.

### **85 Transitional provision relating to terms of office of undergraduate or postgraduate student Fellows**

- (1) In this clause, **2012 By-law** means the [University of Sydney Amendment \(Terms of Office\) By-law 2012](#).
- (2) The amendment of clause 24 (3) by the 2012 By-law does not apply to persons elected before the commencement of that amendment.
- (3) The amendment of clause 44 by the 2012 By-law does not apply to a casual vacancy in the office of a Fellow who was elected before the commencement of that amendment.

**86 Transitional provision relating to casual vacancies in office of Chancellor**

Clause 10 as amended by the [University of Sydney Amendment \(Chancellor\) By-law 2012](#) applies to a casual vacancy in the office of Chancellor that occurs on or after the commencement of that amendment.