

7 > UNIVERSITY OF TECHNOLOGY, SYDNEY, BY-LAW 2005

under the *University of Technology, Sydney, Act 1989*

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

Carmel Tebbutt, MLC

Minister for Education and Training

Explanatory note

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

- (a) the term of office of the Chancellor,
- (b) the qualification and method of election of the members of the Council who are elected,
- (c) the procedures for nomination of appointed members of the Council,
- (d) membership of Convocation,
- (e) rules that may be made.

This By-law repeals the *University of Technology, Sydney, By-law 1995*.

This By-law is made under the *University of Technology, Sydney, Act 1989*, including section 28 (the general power to make by-laws).

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.

academic staff member of the Council means a member of the Council referred to in section 9(1)(d) of the Act.

Chancellor means the Chancellor of the University.

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 (as specified in a notice under clause 11(2)(d)).

close of the ballot, in relation to an election, means the date and time by which ballot papers must be received by the Returning Officer for the election (as specified in a notice under clause 11(2)(f)).

Deputy Chancellor means the Deputy Chancellor of the University.

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

external persons has the same meaning as it has in section 9(10) of the Act.

Nominations Committee means the Committee established under clause 33.

non-academic staff member of the Council means the member of the Council referred to in section 9(1)(e) of the Act.

postgraduate student member of the Council means the member of the Council referred to in section 9(1)(g) of the Act.

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

Registrar means the Registrar of the University.

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*.

undergraduate student member of the Council means the member of the Council referred to in section 9(1)(f) of the Act.

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

- (2) For the purposes of this By-law, a person is a member of the fractional-time academic or non-academic staff if the person is employed, otherwise than on a casual or temporary basis, to perform a proportion of the duties that a full-time person employed in the same classification would normally be required to perform in a 12-month period.
- (3) For the purposes of this By-law and the rules, a person is a senior officer of the University if the person is any of the following:
 - (a) the Vice-Chancellor,
 - (b) a Deputy Vice-Chancellor,
 - (c) a Pro-Vice-Chancellor,
 - (d) the Registrar,
 - (e) the holder of such other office in the University as the Council, by resolution, designates for the purposes of this subclause.
- (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.

UTS notes

1. Section 11(2) of the *University of Technology, Sydney, Act 1989* provides that the term of office of the Deputy Chancellor is 2 years from the date of his or her election.
2. The Chancellor and Deputy Chancellor are to be elected according to procedures determined by the Council (sections 10 [Chancellor] and 11 [Deputy Chancellor], and clause 6 of Schedule 1 [General procedure] of the Act). The relevant procedures are set out in the rules.

Division 2 — Elected members of Council

5 Returning Officer

- (1) An election referred to in this Division is to be conducted by the Registrar who is 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 conduct and results of an election and such other matters as may from time to time affect the conduct of elections.

6 Rolls

The Returning Officer is to keep the following:

- (a) for the purposes of section 9(1)(d) of the Act — a Roll of Academic Staff containing the names and last known addresses of those persons who are classified as full-time or fractional-time members of the academic staff of the University,
- (b) for the purposes of section 9(1)(e) of the Act — a Roll of Non-Academic Staff containing the names and last known addresses of those persons who are classified as full-time or fractional-time members of the non-academic staff of the University,
- (c) for the purposes of section 9(1)(f) of the Act — a Roll of Undergraduate Students containing the names and last known addresses 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 9(1)(g) of the Act — a Roll of Postgraduate Students containing the names and last known addresses 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.

7 Qualification for election as member of academic staff

For the purposes of section 9(1)(d) of the Act, in respect of a person seeking election as a member of the academic staff of the University, the prescribed qualification is that the person's name is entered in the Roll of Academic Staff at the close of nominations for the election.

8 Qualification for election as member of non-academic staff

For the purposes of section 9(1)(e) of the Act, in respect of a person seeking election as a member of the non-academic staff of the University, the prescribed qualification is that the person's name is entered in the Roll of Non-Academic Staff at the close of nominations for the election.

9 Qualification for election as undergraduate student

For the purposes of section 9(1)(f) of the Act, in respect of a person seeking election as an undergraduate student of the University, the prescribed qualifications are that the person's name:

- (a) is entered in the Roll of Undergraduate Students, and
 - (b) is not entered in the Roll of Academic Staff or the Roll of Non-Academic Staff,
- at the close of nominations for the election.

10 Qualification for election as postgraduate student

For the purposes of section 9(1)(g) of the Act, in respect of a person seeking election as a postgraduate student of the University, the prescribed qualifications are that the person's name:

- (a) is entered in the Roll of Postgraduate Students, and
 - (b) is not entered in the Roll of Academic Staff or the Roll of Non-Academic Staff,
- at the close of nominations for the election.

11 Call for nominations and notice of election

- (1) If an election of members of the Council is necessary, the Returning Officer must publish a notice referred to in this clause on the official noticeboards on the premises of the University and:
 - (a) in the case of an election of an academic or a non-academic staff member of the Council, must send or deliver a copy of the notice to each person whose name is in the relevant roll of staff of the University, and
 - (b) in the case of an election of a postgraduate or an undergraduate student member of the Council, must publish or cause to be published such copies of the notice in such manner as the Returning Officer considers necessary to inform the persons whose names are in the relevant roll of students of the University of its contents.
- (2) A notice referred to in this clause must:
 - (a) state that an election is necessary to fill the office or offices concerned, and
 - (b) invite nominations of persons for election, and
 - (c) specify the form in which nominations must be made, and

- (d) specify a date and time by which nomination papers must reach the Returning Officer, and
 - (e) specify how ballot papers may be obtained, and
 - (f) specify a date and time by which ballot papers must reach the Returning Officer, and
 - (g) contain such other information relating to the election as the Returning Officer thinks fit (which might include, for example, details of the number of vacancies to be filled and of the terms of office of the members of the Council to be elected).
- (3) An election is not invalid only because a person whose name is in the relevant roll of staff or students of the University did not see a notice or a copy of a notice, or did not receive a copy of a notice, referred to in this clause.

12 Schedule of dates for Council elections

In the conduct of an election of members of the Council, the Returning Officer must allow:

- (a) between the publication of the notice under clause 11(1) stating that an election is necessary and the close of nominations for the election — not less than 14 and not more than 28 days, and
- (b) between the close of nominations for the election and the issue of ballot papers under clause 16 — not more than 28 days, and
- (c) between the issue of ballot papers under clause 16 and the close of the ballot — not less than 14 and not more than 28 days.

13 Making of nominations

- (1) Nominations of candidates for an election of members of the Council must be made by sending or delivering nomination papers to the Returning Officer.
- (2) A nomination paper must be signed by 2 persons whose names are entered in the relevant Roll for the election for which the candidate is nominated and must be endorsed with or accompanied by the written consent of the person nominated.
- (3) There must be a separate nomination paper for each candidate.
- (4) A candidate may provide with the nomination paper a statement of not more than 150 words containing information relating to the candidate that he or she wishes to supply. That information may include, for example, the following:
 - (a) full name,
 - (b) faculty, school or department,
 - (c) academic qualifications and experience,
 - (d) positions or offices held at any time in public bodies, clubs and institutions (including University clubs and societies) with dates of tenure.
- (5) Statements containing more than 150 words will not be accepted. The Returning Officer (or a person appointed by the Returning Officer) is to edit all statements supplied to ensure that they contain no defamatory or offensive material. The edited statements are to be printed and distributed with the ballot papers.

- (6) The Returning Officer must reject a nomination paper if satisfied that:
 - (a) the nomination is not duly made, or
 - (b) the person nominated is not eligible to be elected.
- (7) The Returning Officer must, within 4 days after receipt of a nomination paper, send or deliver a notice to each person who has signed or endorsed the nomination paper, notifying the person of the acceptance or rejection of the nomination.

14 Dealing with nominations

- (1) If no more than 2 nominations of persons for election as academic staff members of the Council are accepted, the Returning Officer must declare the person or persons nominated to be elected. If more than 2 nominations are accepted, there must be a ballot.
- (2) If no more than one nomination of persons for election to the Council as:
 - (a) the non-academic staff member, or
 - (b) the undergraduate student member, or
 - (c) the postgraduate student member,
 is accepted in any of those categories, the Returning Officer must declare the person nominated to be elected. If more than one nomination is accepted in any category, there must be a ballot in the category concerned.

15 Form of ballot

A ballot for a Council election must be a secret ballot using the optional preferential system.

16 Conduct of ballot

- (1) The Returning Officer must, if there is to be an election for an academic or non-academic staff member of the Council, send or deliver a ballot paper to each person whose name is in the relevant roll of staff of the University.
- (2) The Returning Officer must, if there is to be an election for an undergraduate or postgraduate student member of the Council:
 - (a) publish in such manner as the Returning Officer considers necessary a notice specifying the dates and times of polling, the location of polling booths and any other relevant information, and
 - (b) establish on the University premises polling booths attended, during the dates and times for polling, by persons appointed by the Returning Officer for the purpose of issuing a ballot paper to each person who requests one and is recognised by one of the appointed attendants as being a person whose name is in the relevant roll of students of the University, and
 - (c) forward a ballot paper to each person whose name is in the relevant roll of students of the University if the person has applied for the issue of a ballot paper by post and the application has been received not later than 10 days before the date of the election.
- (3) Following receipt of a written application, the Returning Officer may, on being satisfied that a ballot paper has been lost or destroyed, supply a duplicate ballot paper to the person to whom the lost or destroyed ballot paper was issued.

- (4) An election is not invalid only because a person whose name is in the relevant roll of staff or students of the University did not receive a ballot paper.
- (5) In this clause, a reference to a person's name being in a relevant roll of staff or students of the University is a reference to the person's name being in the roll concerned at the close of nominations for the relevant election.

17 Notice to accompany ballot paper

With each ballot paper issued in respect of a Council election, there must also be issued:

- (a) a notice setting out how the ballot paper is to be completed and specifying the date and time by which ballot papers for that election must reach the Returning Officer, and
- (b) 2 envelopes, one marked "Ballot Paper" and the other addressed to the Returning Officer on the inside of which must be printed a form of declaration of identity and of entitlement to vote to be signed by the voter.

18 Contents of ballot paper

Each ballot paper must contain the names of the candidates in the order drawn at random by the Returning Officer or by a person appointed by the Returning Officer for the purposes of the election and must be initialled by the Returning Officer or by a person appointed by the Returning Officer.

19 Method of voting

Each voter must mark a vote on the ballot paper by placing the figure "1" in the square opposite the name of the candidate to whom the voter desires to give his or her first preference vote, and may place consecutive figures (commencing with the figure "2") in the squares opposite the names of any of the remaining candidates, so as to indicate by numerical sequence the order of the voter's preference for them.

20 Voting at staff elections

- (1) In the case of an election of an academic or non-academic staff member of the Council, each voter must send or deliver to the Returning Officer the ballot paper enclosed and sealed in the envelope marked "Ballot Paper" which must be enclosed and sealed in another envelope addressed to the Returning Officer, with a signed form of declaration of identity and entitlement to vote on the inside.
- (2) All envelopes received by the Returning Officer under this clause must be deposited in the relevant ballot box.

21 Voting at student elections

- (1) Subject to subclause (3), in the case of an election of an undergraduate or postgraduate student member of the Council, any student who has been recognised, by a person appointed by the Returning Officer to attend a polling booth, as being a person whose name is in the relevant roll of students of the University and whose name is then marked on a copy of that roll to signify the issue of a ballot paper, must be provided with a ballot paper.
- (2) A student provided with a ballot paper who desires to vote at a polling booth must, in the presence of a person appointed by the Returning Officer, deposit the vote in the relevant ballot box provided for the purpose at the polling booth.

- (3) A student who has been forwarded a ballot paper under clause 16(2)(c) and who wishes to vote must send or deliver to the Returning Officer the ballot paper enclosed and sealed in an envelope marked "Ballot Paper" which must be enclosed and sealed in another envelope addressed to the Returning Officer, with a signed form of declaration of identity and entitlement to vote on the inside.

- (4) Despite subclause (3), a student referred to in that subclause may vote by depositing the ballot paper forwarded to the student in the relevant ballot box at a polling booth.

22 Envelopes and ballot papers not to be opened

- (1) All envelopes received by the Returning Officer under clause 20 or 21 must remain unopened until the close of the ballot.
- (2) A ballot box referred to in clause 20 or 21 must remain unopened until the close of the ballot.

23 Procedure on close of ballot

As soon as practicable after the close of the ballot, the Returning Officer or a person appointed by the Returning Officer must:

- (a) open the ballot boxes, and
- (b) open any envelopes addressed to the Returning Officer and received before the close of the ballot, and
- (c) if any declaration of identity is duly signed by a qualified voter, place the unopened envelope containing the ballot paper with other similar envelopes, and
- (d) open the envelopes referred to in paragraph (c) and take out the ballot papers, and
- (e) count the votes, and ascertain the result of the ballot, in the manner set out in clauses 24–27.

24 Informal ballot papers

- (1) A ballot paper is informal if it has on it any mark or writing that, in the opinion of the Returning Officer, will enable any person to identify the voter.
- (2) A ballot paper is informal if not initialled under clause 18.
- (3) A ballot paper is informal if the voter has not indicated a clear preference for at least one candidate.
- (4) Despite any other provision of this clause, a ballot paper is not informal only because any figures placed on the ballot paper are not placed in or entirely in the squares opposite the candidates' names, if the figures are placed on the ballot paper in such positions as, in the opinion of the Returning Officer, clearly indicate the order of the voter's preference for the candidates.

25 Nomination of scrutineers

- (1) Each candidate is entitled to nominate one scrutineer to be present at the count.
- (2) A person is not to be a scrutineer in an election in which he or she is a candidate.

26 Determination of result of ballot

- (1) In this clause:
an absolute majority of votes means a greater number than one-half of the whole number of formal ballot papers counted.
continuing candidate means a candidate not already excluded from the count.

determine by lot means determine in accordance with the following directions:

- (a) the names of the candidates concerned must be written on separate and similar slips of paper,
 - (b) the slips must be folded so as to prevent identification and mixed and drawn at random,
 - (c) the candidate whose name is first drawn must be excluded.
- (2) If a ballot has been held for the purpose of an election the result of the ballot must be determined as provided in this clause.
 - (3) The Returning Officer must count the total number of ballot papers and exclude any informal papers.
 - (4) The Returning Officer must count the number of first preference votes given for each candidate.
 - (5) The candidate who has received the largest number of first preference votes must, if that number constitutes an absolute majority of votes, be declared by the Returning Officer to be elected.
 - (6) If no candidate has received an absolute majority of first preference votes, the candidate who has received the fewest first preference votes must be excluded and each of the ballot papers counted to that candidate must be counted to the continuing candidate next in order of the voter's preference.
 - (7) If on any count 2 or more candidates have an equal number of votes and one of them has to be excluded, the candidate to be excluded must be determined as follows:
 - (a) if the count is the first made in connection with the ballot, the Returning Officer must determine by lot which of those candidates is to be excluded,
 - (b) if the count is the second or subsequent count made in connection with the ballot:
 - (i) that candidate must be excluded who had the least number of votes at the last count at which one of those candidates received fewer votes than each of the others, or
 - (ii) the Returning Officer must determine by lot which of those candidates is to be excluded, if at all preceding counts no one of those candidates received fewer votes than each of the others.
 - (8) The process of excluding the candidate who has the fewest votes and counting each of the ballot papers counted to that candidate to the continuing candidate next in order of the voter's preference must (subject to subclause (9)) be continued:
 - (a) until one continuing candidate has an absolute majority of votes in which event that candidate must be declared by the Returning Officer to be elected, or
 - (b) until all candidates but one have been excluded in which event the remaining candidate must be declared elected.
 - (9) If at any point during any particular count after the first preference votes have been counted, the candidate next in order of a voter's preference is not indicated or cannot be ascertained, that ballot paper must, from that point onwards, be excluded from that particular count and the total of the ballot papers counted must be amended accordingly. The ballot paper must, however, be reinstated in any later counts carried out in accordance with subclause (10).

- (10) If any further position remains to be filled, all excluded candidates must be reinstated with their first preference votes credited and each of the ballot papers counted to the elected candidate or candidates must be counted to the reinstated candidate next in order of the voter's preference as if it were a first preference vote.

- (11) The procedures described in subclauses (5)–(10) apply until all vacancies are filled.

27 Secrecy of ballot to be maintained

- (1) The result of the count must remain confidential until the declaration of 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.

28 Term of office of elected members of Council

For the purposes of clause 1(1)(c) of Schedule 1 to the Act, a member of Council elected under section 9(1)(d), (e), (f) or (g) 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 9(1)(d), (e), (f) or (g) of the Act occurs:
 - (a) if less than a quarter of that member's term of office remains, the Council is, as soon as practicable after the vacancy occurs, to appoint a person qualified to hold that office under section 9(1)(d), (e), (f) or (g) 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 a quarter 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.
- (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).

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 rules for the conduct of elections 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 Number of members appointed under section 9(1)(c)

For the purposes of section 9(1)(c) of the Act, the Council is to appoint 4 external persons as members of the Council.

32 Number of members appointed under section 9(1)(h)

For the purposes of section 9(1)(h) of the Act, the Council is to appoint 2 external persons as members of the Council.

33 Nominations Committee

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

- (a) the Chancellor,
- (b) the Vice-Chancellor,
- (c) 3 persons appointed to the Committee by the Council of whom:
 - (i) one must be a member of the Council appointed under section 9(1)(b) of the Act, and
 - (ii) one must be a member of the Council appointed under section 9(1)(c) or (h) of the Act.

(2) A person referred to in subclause (1)(c) must not be the holder of an office in respect of which the Committee is convening (unless the person is not seeking reappointment).

34 Nominations procedure relating to appointments under section 9(1)(b) or (c)

(1) At least 3 months before the term of office of a member of the Council appointed under section 9(1)(b) or (c) of the Act is due to expire, the Nominations Committee 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 nomination 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 9(5) and (6) 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) nominated 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 Registrar, and
- (b) of which the Registrar 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 nomination or an appointment.

35 Nominations procedure relating to appointments under section 9(1)(h)

(1) At least 3 months before the term of office of a member of the Council appointed under section 9(1)(h) is due to expire, the Returning Officer is to invite the members of Convocation to propose persons who may be suitable for appointment as such a member within the time and in the manner specified in the invitation.

(2) The Returning Officer is to make such an invitation:

- (a) by publishing a notice to that effect at least once in a newspaper circulating throughout Australia, and
- (b) by any other means that he or she considers appropriate.

(3) The Returning Officer is to forward all valid proposals to the Nominations Committee.

(4) The Committee is:

- (a) to consider the proposals forwarded by the Returning Officer under subclause (3), and
- (b) to provide comments to the Council on the suitability of all persons the subject of those proposals at least 2 months before the relevant term of office is due to expire.

- (5) In providing comments to the Council pursuant to subclause (4)(b), 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 9(5) and (6) of the Act), and
 - (c) such other matters as the Committee considers relevant.
- (6) The Council is:
- (a) to determine which of the proposed persons are to be appointed by the Council, and
 - (b) to determine the length of appointment for each such person.
- (7) The Council is to make the determinations referred to in subclause (6) at least 1 month before the relevant term of office is due to expire.
- (8) The Council may make the determinations referred to in subclause (6) only at a meeting of the Council:
- (a) convened by the Registrar, and
 - (b) of which the Registrar has given each member of the Council at least 7 days' notice.
- (9) The notice referred to in subclause (8)(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.
- (10) A failure to comply with a time limit specified in this clause does not affect the validity of an appointment.
- (11) For the purposes of this clause, the Returning Officer is to be the Registrar.

36 Casual vacancy in office of appointed member of Council

- (1) If a casual vacancy occurs in the office of a member of Council appointed under section 9(1)(b) 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) If a casual vacancy occurs in the office of a member of the Council appointed under section 9(1)(c) or (h) of the Act, the vacancy is to be filled in accordance with the procedures set out in clause 34 or 35 (as the case may be) that apply in respect of such an office.
- (3) The time limits specified in clauses 34 and 35 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.

UTS note

Section 3 [2] of the *University of Technology, Sydney, Act 1989* is to the effect that a graduate of the University is a person who is the recipient of a degree or diploma, or of such other award or certificate as may be prescribed by the by-laws, conferred or awarded by the University, by or on behalf of any former institution that has become part of the University or by any predecessor of any such institution.

This clause prescribes certain awards and certificates for the purposes of that section.

The 'former institutions' of the University are the following:

- (a) the New South Wales Institute of Technology,
- (b) the Design School of the Sydney College of the Arts,
- (c) the Kuring-gai College of Advanced Education,
- (d) the Sydney College of Advanced Education Institute of Technical and Adult Teacher Education, and any predecessors of such institutions.

38 Prescribed staff members of Convocation

For the purposes of section 14(1)(c) of the Act, Convocation includes persons who are:

- (a) members of the academic staff of the University appointed on a fractional-time basis, or
- (b) members of the non-academic staff of the University appointed on a full-time or fractional-time basis.

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

Division 1 — Rules relating to Academic Board

41 Rules with respect to Academic Board

The Council may make rules for or with respect to the constitution and functions of the Academic Board.

42 Academic Board may make rules

The Academic Board may make rules for or with respect to:

- (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.

Division 2 — Rules relating to Convocation

43 Council may make rules

The Council may make rules for or with respect to the functions of Convocation and of any committees of Convocation.

Division 3 — Rules generally

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), 9(1)(c)–(h) and (8), 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 Rules made by Vice-Chancellor

The Vice-Chancellor may make rules, not inconsistent with the rules made by the Council, for or with respect to the good conduct of the University.

46 Promulgation of rules

- (1) A rule made by the Council or by the Vice-Chancellor must be promulgated by means of a notice displayed on each of the official noticeboards of the University.
- (2) The Registrar must ensure that the rules are published in an official publication of the University.
- (3) Failure to comply with subclause (2) does not invalidate any rule.
- (4) In the event of an inconsistency between the rules made by the Council and the rules made by the Vice-Chancellor, the rules made by the Council prevail.

PART 5 — MISCELLANEOUS

47 Construction of references

A reference in any document of any kind to the University Secretary of the University is taken to be a reference to the Registrar.

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) The Returning Officer is to continue to keep a Roll of Convocation in accordance with clause 8(1)(e) of the *University of Technology, Sydney, By-law 1995* (as in force immediately before its repeal by this By-law) for so long as may be required for the purposes of clause 17(5)(e) of Schedule 3 to the Act.