

MACQUARIE UNIVERSITY BY-LAW 2005

under the *Macquarie University Act 1989*

Part 1 Preliminary

1 Name of By-law

This By-law is the Macquarie University By-law 2005.

2 Application

This By-law applies to and in respect of the Macquarie University as established by the Macquarie University Act 1989.

3 Interpretation

(1) In this By-law:

Academic Senate means the Academic Senate of the University.

academic staff member of the Council means a member of the Council elected under section 9 (1) (d) of the Act.

close of nominations, in relation to an election, means the date and time by which nominations must be received by the Registrar for the election (as specified in a notice under clause 4 (2) (c) of Schedule 1).

close of the poll, in relation to an election, means the date and time by which completed voting forms must be received by the Registrar for the election (as specified in a notice under clause 7 (1) (ii) of Schedule 1).

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

graduate member of the Council means a member of the Council elected under section 9 (1) (g) of the Act.

Nominations Committee means the Committee established under clause 14.

non-academic staff member of the Council means the member of the Council elected under section 9 (1) (e) of the Act.

Registrar means the Registrar of the University.

student member of the Council means the member of the Council elected under section 9 (1) (f) of the Act.

the Act means the *Macquarie University Act 1989*.

(2) In this By-law, a reference to an authority, officer or office is a reference to that authority, officer or office in and of the University.

(3) Where this By-law provides for empowering an authority or officer of the University to make rules then, unless the contrary intention appears, expressions used in any such rule have the same meaning as in the By-law.

(4) Notes in this By-law do not form part of this By-law.

Part 2 Members of Council

Division 1 Elected members of Council

4 Procedure for election

An election under this Division is to be conducted in accordance with the procedures set out in Schedule 1.

5 Academic staff members of Council

The persons qualified to be elected as, and the persons entitled to vote for, the academic staff members of the Council, are those persons who are members of the academic staff of the University at the date and time for the close of nominations for the election concerned.

6 Non-academic staff member of Council

The persons qualified to be elected as, and the persons entitled to vote for, the non-academic staff member of the Council, are those persons who are members of the non-academic staff of the University at the date and time for the close of nominations for the election concerned.

7 Student member of Council

The persons qualified to be elected as, and the persons entitled to vote for, the student member of the Council, are those persons whose names appear as full-time or part-time students on the Roll of Students at the time and date for close of nominations for the election concerned.

8 Roll of Students

(1) The Registrar is to keep a Roll of Students containing the names and last known addresses of the students of the University who are proceeding to a degree, diploma or certificate.

(2) The Roll of Students is to be kept in such manner and subject to such conditions as determined by the Registrar.

(3) The Roll of Students must indicate, in respect of each student, whether the student's enrolment is undergraduate or postgraduate.

9 Term of office of elected members of Council

For the purposes of clause 1 of Schedule 1 to the Act:

- (a) the term of office of an academic staff member of the Council is 3 years, and
- (b) the term of office of the non-academic staff member of the Council is 3 years, and

- (c) the term of office of the student member of the Council is one year.

10 Casual vacancy in office of academic or non-academic staff member of Council

(1) A casual vacancy in the office of an academic staff member of the Council or the non-academic staff member of the Council occurring within the first 2 years of the term of that office is to be filled by a further election in accordance with this By-law.

(2) If a casual vacancy in the office of an academic staff member of the Council or the non-academic staff member of the Council occurs otherwise than within the first 2 years of that term of office, the Council is to appoint the person:

- (a) who was last eliminated in the last election to fill the office concerned, and
- (b) who remains eligible for appointment, and
- (c) who is available for appointment.

(3) If the conditions set out in subclause (2) cannot be met, the vacancy is to be filled by a person appointed by the Council who is qualified to hold the office concerned.

(4) A member of the Council appointed or elected to fill a casual vacancy under this clause holds office for the unexpired portion of his or her predecessor's term of office.

11 Casual vacancy in office of student member of Council

(1) If a casual vacancy in the office of the student member of the Council occurs at any time before the date on which the member's term of office would have otherwise expired, the Council is to appoint the person:

- (a) who was last eliminated in the last election to fill that office, and
- (b) who remains eligible for appointment, and
- (c) who is available for appointment.

(2) If the conditions set out in subclause (1) cannot be met, the vacancy is to be filled by a person appointed by the Council who is qualified to hold the office concerned.

(3) A member of the Council appointed to fill a casual vacancy under this clause holds office for the unexpired portion of his or her predecessor's term of office.

Division 2 Appointed members of Council

12 Members of Council appointed by Council (other than graduate members)

For the purposes of section 9 (1) (c) of the Act, the Council is to appoint one external person as a member of the Council.

13 Graduate members of Council

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

14 Nominations Committee

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

- (a) the Chancellor,
- (b) the Vice-Chancellor,
- (c) the Vice-President of the Academic Senate,
- (d) a member of the Council who is not in the same category of office of member as the office in respect of which the Committee is convening.

(2) The quorum for a meeting of the Committee is 3 members.

(3) The Committee may conduct its business (including the conduct of any interviews) by meeting in person or by telephone, video link or any other form of telecommunication.

15 Nomination procedures relating to appointed members of Council

(1) At least 6 months before the term of office of a member of the Council appointed under section 9 (1) (b), (c) or (g) expires, the Nominations Committee is:

- (a) to identify the expertise and experience that will be needed to complement that of the other members of the Council, and
- (b) 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, and
- (b) to recommend the length of appointment for each such person, and
- (c) to forward its recommendations to the Council.

(3) In determining the persons to be recommended under subclause (2) (a), the Committee is to take into consideration:

- (a) whether a person has developed, or has the capacity to develop:
 - (i) a good understanding of what the external community needs from the University, and
 - (ii) strong external networks that may benefit the University, and
- (b) whether a person will contribute to the effective working of the Council, and
- (c) whether a person has the expertise and experience (identified under subclause (1)) needed to complement that of existing members of the Council, and
- (d) the matters referred to in section 9 (5) and (6) of the Act, and
- (e) such other matters as the Committee considers appropriate.

(4) The Committee's recommendations under subclause (2) are to include its assessment of the recommended persons against the matters referred to in subclause (3).

- (5) 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.
- (6) The Chancellor is to forward the determinations referred to in subclause (5) (b) (i) and (c) (i) to the Minister for consideration.

16 Casual vacancy in office of member appointed under section 9 (1) (b)

(1) If a casual vacancy occurs in the office of a member of the Council appointed under section 9 (1) (b) of the Act, the Chancellor is to forward to the Minister for consideration the name of another person nominated by the Council from the persons who were recommended to it under clause 15 (2) for the office concerned.

(2) If no such person is available for appointment:

- (a) the Committee is to identify other persons who may be suitable for appointment as such a member, and
- (b) the Chancellor is to forward to the Minister for consideration for appointment the name of one of those persons, determined in accordance with the procedures set out in clause 15 (2)–(5).

(3) A member of the Council appointed to fill a casual vacancy under this clause holds office for the unexpired portion of his or her predecessor's term of office.

17 Casual vacancy in office of member appointed under section 9 (1) (c) or (g)

(1) If a casual vacancy occurs in the office of a member of Council appointed under section 9 (1) (c) or (g) of the Act, the Council is to appoint another person from the persons who were recommended to the Council under clause 15 (2) for the office concerned.

(2) If no such person is available for appointment:

- (a) the Committee is to identify other persons who may be suitable for appointment as such a member, and
- (b) the Council is to appoint one of those persons determined in accordance with the procedures set out in clause 15 (2)–(5).

(3) A member of the Council appointed to fill a casual vacancy under this clause holds office for the unexpired portion of his or her predecessor's term of office.

Part 3 Chancellor and Deputy Chancellor

18 Term of office of Chancellor

For the purposes of section 10 (2) of the Act, the prescribed term of office for the Chancellor is 3 years.

19 Election of Chancellor or Deputy Chancellor

An election to fill a vacancy in the office of Chancellor or Deputy Chancellor is to be held at an ordinary meeting of the Council held no later than two months after the vacancy occurs.

20 Nomination of Chancellor or Deputy Chancellor

A nomination for the office of Chancellor or Deputy Chancellor:

- (a) must be in writing and made with the consent of the person nominated, and
- (b) must be handed to the Registrar before the meeting at which the election is to be held, and
- (c) must be supported by two persons who are members of the Council.

21 Membership of committees

(1) The Chancellor and Deputy Chancellor are, by virtue of their office, members of all committees constituted by this By-law or by the Council (other than the Standing Committee and any other committee of Convocation) and of all boards within the University.

(2) The Chancellor may preside at any meeting of any such committee or board at which he or she is present and is to have all the rights and duties of the chairperson of any such committee or board.

(3) If the Chancellor is not present, or if the office of Chancellor is vacant, the Deputy Chancellor may preside at any such meeting and is to have the like rights and duties.

Part 4 Vice-Chancellor

22 Functions of Vice-Chancellor

Subject to any resolution of the Council, the Vice-Chancellor is:

- (a) to promote the interests and further the development of the University, and
- (b) to be responsible for the academic, administrative, financial and other business of the University, and
- (c) to exercise a general supervision over all persons in the service of the University and

over the welfare and discipline of the students of the University.

23 Membership of committees

The Vice-Chancellor is, by virtue of his or her office, a member of every committee or board within the University, and, except in the case of the Finance Committee, he or she may, if he or she so desires, preside at any meeting of any such committee or board in the absence of the Chancellor and Deputy Chancellor.

24 Authority

(1) Nothing in this Part affects the precedence or authority of the Chancellor or Deputy Chancellor.

(2) The Vice-Chancellor has such authority as may be necessary or convenient to give effect to the provisions of this Part.

(3) Without affecting the generality of the provisions of this Part, the Vice-Chancellor has power:

- (a) to accept resignations from members of the staff and to communicate such acceptance to the members of the staff concerned, and
- (b) to approve the grant of salary progression to any member of the staff within the salary scale applicable to such member.

Part 5 Convocation

25 Members of Convocation

(1) In addition to the persons on whom membership is conferred by section 14 of the Act, Convocation is to include the following:

- (a) persons who have accepted an invitation by the Council to membership of Convocation,
- (b) such of the full-time members of the non-academic staff of the University as the Council may from time to time determine,
- (c) those persons who have been admitted to membership of Convocation pursuant to section 14 (1) (c) of the Act and who have retired from the staff of the University.

(2) Any person who becomes a member of Convocation pursuant to an invitation referred to in subclause (1) (a) may resign his or her membership by giving notice in writing to the Registrar.

26 Roll of Convocation

(1) The Registrar is to keep a Roll of Convocation containing the names and addresses of the members of Convocation.

(2) The Roll of Convocation is to be kept in such manner and subject to such conditions as the Registrar may determine.

Part 6 Academic Senate

27 Constitution of Academic Senate

(1) The members of the Academic Senate are as follows:

- (a) the Vice Chancellor,
- (b) the Deputy Vice-Chancellors and the Pro-Vice Chancellors,
- (c) the Deans of Divisions constituted within the University by the Council,
- (d) 2 members from each Division elected by and from the continuing academic staff of the Division in accordance with rules made by the Council,
- (e) 3 students elected in accordance with rules made by the Council,
- (f) the Vice-President of the Academic Senate (if the Vice-President is not otherwise a member of the Academic Senate) elected in accordance with rules made by the Council,
- (g) the Deputy Vice-President of the Academic Senate (if the Deputy Vice-President is not otherwise a member of the Academic Senate) elected in accordance with rules made by the Council.

(2) In this clause:

continuing academic staff means academic staff employed on other than a fixed term or casual basis.

28 Functions of Academic Senate

The Academic Senate is the principal academic body in the University, and has the following functions:

- (a) to advise the Council on matters concerning academic and related activities of the University,
- (b) to consider, and report to the Council on, any matter referred to it by the Council,
- (c) such other functions as may be specified from time to time in resolutions made by the Council.

Part 7 University membership

29 Members of the University

For the purposes of section 4 (c) of the Act, the other members of staff of the University who are members of the University are the persons holding the positions of Deputy Vice-Chancellor, Vice-Principal, Pro Vice-Chancellor, Registrar and University Librarian and such other positions as may be specified from time to time in resolutions made by the Council.

Part 8 Common seal

30 Custody of common seal

The common seal of the University is to be kept in the custody of the Registrar.

31 Use of common seal

The affixing of the common seal of the University to any document is to be attested by:

- (a) the Chancellor, the Deputy Chancellor, the Vice-Chancellor, or one of the Deputy Vice-Chancellors, and
- (b) the Registrar.

32 Register of use of common seal

The Registrar is to maintain a Register of the Use of the Common Seal to record the authority for the affixing of the Common Seal, the nature of the document to which the Common Seal has been affixed, the date and the signatures appearing on the document.

Part 9 Arms

33 Blazon

The arms of the University are to be on a field vert, the Macquarie lighthouse tower, masoned proper, in chief the star Sirius, or. Motto: And gladly teche.

34 Authorised use of arms

The arms of the University are to be used, depicted and displayed only in such manner and in such circumstances as the Council may by resolution approve.

Part 10 Making of rules

35 Making of rules by Council and Vice-Chancellor

(1) 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.

(2) The Vice-Chancellor may make rules (not inconsistent with the rules of the Council) for or with respect to any or all of the matters for or with respect to which rules may be made under the Act.

(3) Despite subclause (2), the Vice-Chancellor may not make rules for or with respect to any matter for or with respect to which the Council (alone) is empowered to make rules under any other clause of this By-law.

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)–(g) 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.

(4) A rule made by the Council or the Vice-Chancellor must be published:

- (a) on the Internet by means of the website of the University, or
- (b) in another official University publication.

(5) Failure to comply with subclause (4) does not invalidate a rule.

36 Inconsistency

If the Vice-Chancellor makes a rule that is inconsistent with a rule made by the Council, the rule made by the Council prevails to the extent of the inconsistency.

Part 11 Miscellaneous

37 Repeal and savings

(1) The *Macquarie University By-laws* are repealed.

(2) Any act, matter or thing that, immediately before the repeal of the *Macquarie University By-laws*, had effect under those By-laws continues 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.

Schedule 1 Procedures for election

(Clause 4)

1 Definition

In this Schedule:

posting includes posting by electronic means.

2 Registrar

(1) An election is to be conducted by the Registrar, who is to be the returning officer.

(2) Subject to this Schedule, an election is to be conducted in such manner as the Registrar may determine.

3 Timing of election

In the conduct of an election, the Registrar must allow the following intervals between the events set out:

- (a) between the date of posting, delivery, publication or other display (as the case may be) of the notice of election and the date and time for close of nominations, not less than 14 and not more than 28 days,
- (b) between the date and time for close of nominations and the posting or delivery of voting forms, not more than 28 days,
- (c) between the posting or delivery of voting forms and the date and time by which completed voting forms must reach the Registrar, not less than 14 and not more than 60 days.

4 Notice of election

- (1) The Registrar is to give notice of an election:
 - (a) in the case of an election of an academic staff member of the Council or a non-academic staff member of the Council, by posting or delivering the notice to the last known email or postal address of each person then entitled to vote at the election, and
 - (b) in the case of an election of a student member of the Council:
 - (i) by publishing the notice on the Internet by means of the website of the University or on a notice-board at the University, and
 - (ii) by publishing the notice twice in a daily newspaper circulating within Sydney and elsewhere in the State, and
 - (iii) by posting or delivering the notice to the last known email or postal address of each off-campus student entitled to vote at the election.
- (2) The notice of election must:
 - (a) state the number of persons to be elected and the qualifications for candidature, and
 - (b) invite nominations of candidates for election and specify the form in which nominations are to be made, and
 - (c) specify the date and time by which nominations must reach the Registrar.

5 Nominations

- (1) A separate nomination form must be completed for each candidate.
- (2) A nomination form:
 - (a) is to be signed by 2 persons qualified to vote at the election concerned, one of whom is the proposer and one of whom is the seconder, and
 - (b) must be endorsed with, or accompanied by, the written consent of the candidate to his or her nomination.
- (3) If, at the close of nominations, the number of persons duly nominated does not exceed the number of persons to be elected, the Registrar must declare the persons so nominated to be elected.
- (4) If, at the close of nominations, the number of nominations received by the Registrar is greater than the number of persons to be elected, the Registrar must proceed to an election as provided for in this By-law.

6 Voting form

- (1) Each voting form is to contain the names of candidates arranged in the order in which those names are drawn by lot by the Registrar.
- (2) Each candidate is entitled to nominate one scrutineer to represent the candidate at the draw.
- (3) If a voting form has been lost or destroyed, a duplicate is to be supplied on written application to the Registrar.

7 Material to accompany voting form

- (1) Each voting form is to be accompanied by the following:
 - (a) a notice that specifies:
 - (i) the manner in which the voting form is to be completed and submitted to the Registrar, and
 - (ii) the date and the time by which the completed voting form must reach the Registrar,
 - (b) if a candidate has, not later than 3 days after the close of nominations or such later time as the Registrar may permit in respect of the candidate, supplied to the Registrar a statement, not exceeding 150 words, relating to his or her candidacy, a copy of that statement,
 - (c) a statement showing the name of each candidate's proposer and seconder,
 - (d) a form of declaration, or other means of verification, of identity and entitlement to vote,
 - (e) (except if the election is to be conducted by electronic means) 2 envelopes, one marked "Voting form" and the other addressed to the Registrar.
- (2) The voting form, and the notice and statements referred to in subclause (1), may comprise one or more documents.

8 Method of voting

- (1) The voter is to mark his or her vote on the voting form by inserting the figure "1" opposite the name of the candidate to whom the voter wishes to give his or her first preference.
- (2) If the voter wishes to show his or her order of preference for any or all of the remaining candidates, the voter may do so by inserting the figures "2", "3", "4" and so on, as the case requires, opposite the names of any of the remaining candidates so as to indicate by numerical sequence the order of his or her preference for the candidates.
- (3) The voter must then:
 - (a) in the case of an election conducted by electronic means, submit his or her voting form to the Registrar, or
 - (b) in any other case:
 - (i) place the completed voting form in the envelope marked "Voting form", and
 - (ii) place that envelope and the signed declaration of identity and entitlement to vote in the envelope addressed to the Registrar, and
 - (iii) send or deliver the envelopes to the Registrar before the close of the poll.

9 Procedure on close of poll

(1) After the poll is closed, the Registrar or the Registrar's deputy must:

- (a) in the case of an election conducted by electronic means, access the submitted voting forms and ascertain the result of the election, or
- (b) in any other case:
 - (i) open the outer envelope addressed to the Registrar, and
 - (ii) if the declaration is duly signed by a qualified voter, ensure the envelope containing the voting form is placed and mixed with other similar envelopes, and
 - (iii) open the envelopes containing the voting forms and ascertain the result of the election.

(2) No voting form is to be accepted unless it is received by the Registrar before the close of the poll.

(3) The Registrar is to decide whether any voting form is to be accepted or rejected.

(4) Each candidate is entitled to nominate one scrutineer to monitor the process for the counting of votes.

(5) Neither the Registrar nor anyone acting as the Registrar's deputy nor any scrutineer may in any way disclose or aid in disclosing in what manner any voter has voted.

(6) Despite any other provision in this By-law, and to the extent to which it is possible, at least one of the academic staff members of the Council must have professorial rank.

(7) The result of an election is to be determined in accordance with the procedures set out in the publication entitled *Proportional Representation Manual: Rules for Conducting Elections by the Quota-Preferential Method (3rd edition)* published by the Proportional Representation Society of Australia, a copy of which is available in the office of the Registrar.

(8) The Registrar may make use of data processing equipment for the whole or any part of the procedures referred to in subclause (6).

(9) Subject to this By-law (and without affecting the generality of clause 2 (2) of this Schedule), the Registrar may make such determination as the Registrar thinks necessary to produce a final result in an election or any matter incidental to an election and any such determination is final.