

1991—No. 185

THE UNIVERSITY OF NEW ENGLAND ACT 1989—BY-LAW

(Relating to Convocation, to degrees, diplomas and other certificates, to the seal and arms of the University, to the enrolment of students, to fees and charges and to student conduct)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the University of New England Act 1989, has been pleased to approve the By-law made by the Board of Governors of the University of New England and set forth hereunder.

VIRGINIA CHADWICK
Minister for School Education and Youth Affairs.

The Board of Governors of the University of New England, in pursuance of the University of New England Act 1989, hereby makes the By-law set forth hereunder:

Amendment of Northern Rivers College of Advanced Education By-law

1. The Northern Rivers College of Advanced Education By-law is amended by omitting Chapters 6, 8, 9 and 10.

Amendment of Armidale College of Advanced Education By-law

2. The Armidale College of Advanced Education By-law is amended by omitting Chapters 7, 11, 13, 14 and 17 and the matter relating to those Chapters in clause 3 of Chapter 1 and by omitting Division 2 of Chapter 12.

Amendment of Orange Agricultural College By-law 1984

3. The Orange Agricultural College By-law 1984 is amended by omitting Chapters 9, 11, 12, 13, 14 and 16 and by omitting the matter relating to those Chapters from clause 3.

Amendment of By-laws of University of New England

4. The University of New England By-laws are amended:

- (a) by omitting By-laws Nos. 3, 4, 5, 6, 7 and 12 and by inserting instead the following By-laws:

BY-LAW No. 3—*Convocation*

Additional staff members of Convocation

1. For the purposes of section 15 (1) (c) of the Act, Convocation includes the class consisting of such members of staff of the University as:

- (a) have had at least 12 months' service in the University; and
(b) are members or of a group of members designated in a resolution of the Board.

Convocation may include persons who have been of service to the University

2. For the purposes of section 15 (1) (d) of the Act, the Board may, by resolution, admit as members of Convocation such persons as it considers have given conspicuous service to, or are specially qualified to advance the interests of, the University.

Functions of Convocation

3. The function of Convocation is to submit to the Board such proposals as Convocation deems appropriate with respect to the welfare of the University.

Quorum for meetings of Convocation

4. A quorum for any meeting of Convocation shall be 100 members.

BY-LAW No. 4—*Degrees, diplomas and other certificates*

Form of degrees, diplomas and certificates

1. The degrees, diplomas and other certificates to be conferred and awarded by the Board shall be as prescribed by the rules made by the Board.

Degrees honoris causa

2. The Board may admit persons, honoris causa, to such degrees as are specified in the rules made by the Board for the purposes of this clause.

BY-LAW No. 5—*The seal and arms of the University*

Attestation of affixing of seal

1. All documents to which the seal of the University is affixed shall bear an attestation signed by at least 2 persons, appointed by resolution of the Board for that purpose, certifying that the seal has been affixed pursuant to a resolution of the Board.

Use of the University arms

2. (1) The arms of the University shall not be depicted or displayed or otherwise used except in a manner and circumstances approved by the Board.

(2) The Board may delegate its authority to approve the depiction, display or other use of the arms of the University to such person or persons as may be appointed by the Board from time to time.

BY-LAW No. 6—*Enrolment of students*

Qualifications for enrolment

1. Before being enrolled as a student of the University, a person must have obtained such qualifications or experience, or both, as are acceptable to the Academic Senate.

Limitation of student numbers in particular courses

2. The Academic Senate may make rules limiting the number, and the manner of selection, of students enrolled in particular units or courses offered by the University.

Refusal of enrolment

3. (1) Subject to section 27 of the Act, the Academic Senate may refuse to enrol a person as a student for any reason it deems appropriate.

(2) Without limiting the generality of subclause (1), the Academic Senate may refuse to enrol a person as a student:

- (a) on academic grounds; or
- (b) on the ground that the person has been excluded from some other educational institution; or

- (c) on the ground that the person has, in or in connection with his or her application for enrolment as a student, deliberately provided false or misleading information; or
- (d) on the ground that the person has refused or failed to sign an undertaking to comply with the Act, the By-laws and the rules.

BY-LAW No. 7—*Fees and Charges*

Rules made by the Board

1. The Board may make rules, not inconsistent with the Act or By-laws, regulating, or providing for the regulation of:

- (a) fees and charges to be paid in respect of:
 - (i) entrance to the University; and
 - (ii) tuition in the University; and
 - (iii) attendance at the lectures and classes of the University; and
 - (iv) use of the facilities of the University; and
 - (v) membership of organisations of students or of students and other persons; and
 - (vi) examinations; and
 - (vii) residence provided by the University; and
 - (viii) the conferring of degrees, diplomas and certificates; and
 - (ix) any other activities of the University; and
- (b) the time at which such fees and charges are to be paid and any discretionary action that may be taken in the collection of them; and
- (c) penalties for late or non-payment of such fees and charges; and
- (d) the exemption from, or deferment of, payment of such fees and charges.

Rules made by the chief executive officers of the network members etc.

2. The chief executive officer of each network member and the Principal of Orange Agricultural College may make rules, not inconsistent with the Act, the By-laws or the rules made by the Board, for or with respect to the matters referred to in this By-law, but only in so far as those matters relate to that network member or College.

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- (b) by omitting By-law No. 12 and by inserting instead the following By-law:

BY-LAW No. 12—*Student conduct***Definitions**

1. In this By-law:

“member of the University” means a member of the Board, a member of the academic or non-academic staff of the University or a student of the University;

“residential college” includes a hall of residence and an affiliated college or hall of residence;

“senior member of the University” means the Chancellor, the Deputy Chancellor, the Vice-Chancellor, the Deputy Vice-Chancellor, the chief executive officer of a network member, the Principal of Orange Agricultural College or any other member of the staff of the University whom the Vice-Chancellor, the Deputy Vice-Chancellor, a chief executive officer or the Principal may designate as a senior member for the purposes of this By-law;

“supervisor” means any person appointed by the University to supervise an examination of the University.

Misconduct

2. (1) For the purposes of this By-law, **“misconduct”** by a student means conduct which unreasonably:

- (a) impairs the freedom of other persons to pursue their studies or researches in, or to participate in the life of, the University or its residential colleges; or
- (b) interferes with the fundamental goals of the University in teaching, in research or in the testing and certifying of the standards reached by its students; or
- (c) disrupts the due processes of the University or causes damage to University property.

- (2) Without limiting the generality of the foregoing, **“misconduct”** by a student includes:

- (a) deliberately obstructing any teaching activity, examination or official meeting or proceeding of the University; and
- (b) deliberately disobeying any reasonable instruction of a senior member of the University, including failing to leave any building or part of a building when directed by a senior member of the University to leave it; and
- (c) any breach of the rules; and

- (d) cheating or acting dishonestly in connection with any supervised examination of the University; and
- (e) divulging any confidential information relating to any University matter; and
- (f) deliberately obstructing or attempting to deter any officer or employee of the University in the performance of their duties; and
- (g) deliberately damaging or wrongfully dealing with any property in or on University premises; and
- (h) any form of assault on a person on University premises.

(3) Notwithstanding anything in this clause, **“misconduct”** does not include plagiarism (except to the extent that it may also constitute cheating or acting dishonestly) in an essay, assignment, exercise, thesis or other writing by a student, and nothing in this By-law affects the operation of any rule in force in respect of such plagiarism or the authority of any person in relation thereto.

Penalties

3. (1) The penalties that may be imposed for misconduct consist of the following:

- (a) a fine;
- (b) suspension from attendance at classes;
- (c) suspension from use of laboratories;
- (d) suspension from use of the library;
- (e) suspension from membership of a residential college;
- (f) temporary denial of entry to the premises of a residential college;
- (g) temporary denial of entry to any specified building or land of the University or any specified part thereof;
- (h) exclusion from, or suspension from attendance at, an examination, whether imposed prior to or during the examination;
- (i) cancellation or refusal of credit for any supervised examination in any case where cheating or dishonesty in such examination is discovered;
- (j) suspension from the University for a specified period;
- (k) expulsion from the University.

(2) A student who is expelled from the University shall not be re-enrolled except with the permission of the Board.

Establishment of Disciplinary Committees

4. (1) There shall be within each network member and College of the University a Disciplinary Committee comprising 3 members of staff and 2 students.

(2) The Board shall make rules for or with respect to:

- (a) the appointment or election of the members of a Disciplinary Committee; and
- (b) the term of office for members of a Disciplinary Committee; and
- (c) the replacement of a member of a Disciplinary Committee in the circumstances referred to in subclause (5); and
- (d) the filling of a casual vacancy in the membership of a Disciplinary Committee; and
- (e) the procedures to be followed in any proceedings before a Disciplinary Committee.

(3) If a person ceases to be a member of staff or a student, the person ceases to be a member of the Disciplinary Committee.

(4) The functions of a Disciplinary Committee shall be to hear and adjudicate upon:

- (a) any charge of misconduct referred to it by the Board or a committee of the Board, by the Vice-Chancellor or Deputy Vice-Chancellor, by a chief executive officer or Principal or by some other senior member of the University; and
- (b) any appeal made to it under this By-law,

and to impose, or to recommend the imposition of, a penalty in accordance with this By-law.

(5) Where:

- (a) a member of a Disciplinary Committee notifies the relevant chief executive officer or Principal that he or she is unable or unwilling to attend to a matter pending before the Committee; or
- (b) the chief executive officer or Principal is of the opinion that the member's participation is undesirable because of his or her personal involvement in or in connection with the matter and so notifies the member,

the member shall not participate in the Committee's consideration of that matter, but a person shall be appointed to the Committee to replace the member.

(6) Such an appointment may not be made after any hearing into the matter has commenced.

(7) A person who is appointed to a Disciplinary Committee in accordance with subclause (5) shall be taken to be a member of the Committee while he or she remains so appointed.

(8) A quorum of the Disciplinary Committee shall consist of 3 members.

(9) A Disciplinary Committee shall elect 1 of its number to preside at meetings of the Committee.

(10) The presiding member of a Disciplinary Committee shall have a deliberative vote but, except on a question of procedure, shall not have a casting vote.

(11) If, in the opinion of the presiding member of a Disciplinary Committee, it is not reasonably practicable for a hearing to be concluded, then a new Disciplinary Committee shall be constituted to hear the matter afresh.

Establishment of Appeals Committee

5. (1) The Board shall appoint an Appeals Committee consisting of:

- (a) 4 members of the Board (not including the student member); and
- (b) the student member of the Board or (if the student member is replaced under subclause (5)) the person appointed as his or her replacement.

(2) The Appeals Committee shall hear and determine any matter referred to it under this By-law.

(3) A member of the Appeals Committee shall hold office:

- (a) until the next appointment of an Appeals Committee; or
- (b) until the member resigns from the Committee by writing addressed to the Chancellor; or
- (c) until the member ceases to be a member of the Board.

(4) The Board may at any time fill any vacancy in the membership of the Appeals Committee.

(5) Where:

- (a) a member of the Appeals Committee notifies the Chancellor that he or she is unable or unwilling to attend to a matter pending before the Committee; or
- (b) the Chancellor is of the opinion that the member's participation is undesirable because of his or her personal involvement in or in connection with the matter and so notifies the member,

the member shall not participate in the Committee's consideration of that matter, but a member of the Board shall be appointed by the Chancellor to replace the member.

(6) If the member to be replaced is the student member of the Board, the person to replace that member is to be selected from among the student members of the Disciplinary Committees, other than a Disciplinary Committee that has previously been involved in the matter.

(7) Such an appointment may not be made after any hearing into the matter has commenced.

(8) A person who is appointed to the Appeals Committee in accordance with subclause (5) shall be taken to be a member of the Committee while he or she remains so appointed.

(9) A quorum of the Appeals Committee shall consist of 3 members.

(10) The Appeals Committee shall elect 1 of its number to preside at meetings of the Committee.

(11) The presiding member of the Appeals Committee shall have a deliberative vote but, except on a question of procedure, shall not have a casting vote.

(12) The Board shall make rules providing for the procedures to be adopted by the Appeals Committee.

Penalties imposed by a Disciplinary Committee or by the Appeals Committee

6. A Disciplinary Committee or the Appeals Committee may, if it is satisfied that a student is guilty of misconduct, impose (whether by way of variation or otherwise) a penalty specified in clause 3 (1) (a)–(i) and may make recommendations to the Board concerning the imposition of a penalty specified in clause 3 (1) (i) or (k).

Penalties imposed by the Board

7. The Board, or the Standing Committee of the Board, may, on the recommendation of a Disciplinary Committee or the Appeals Committee, impose a penalty specified in clause 3 (1) (j) or (k).

Penalties imposed by the Vice-Chancellor

8. The Vice-Chancellor may, if he or she is satisfied that a student is guilty of misconduct, impose a penalty specified in clause 3 (1) (a)–(i).

Penalties imposed by members of staff of the University

9. (1) A senior member of the University may, if he or she is satisfied that a student is guilty of misconduct, impose such of the penalties specified in clause 3 (1) (a)–(i) as he or she is authorised by the rules made by the Board to impose.

(2) The Board may make rules with respect to:

- (a) the members or classes of senior members of the University who are authorised to impose penalties under clause 3 (1) (a)–(i);
- (b) any limitations on the exercising of that authority; and
- (c) any reporting procedures to be followed consequent on the exercising of that authority.

Appeals

10. (1) An appeal under this clause must be made to the relevant body in writing within 14 days after the student has been notified of the decision against which the appeal is to be made.

(2) An appeal against a finding of misconduct or a penalty, or both, made or imposed by a senior member of the University under clause 9 may be made to the Disciplinary Committee for the network member or College at which the appellant is a student.

(3) The Disciplinary Committee hearing an appeal under subclause (2) shall hear the matter afresh and may:

- (a) if the appeal is against a finding of misconduct, confirm, quash or vary the finding of misconduct; and
- (b) if the appeal is against a finding of misconduct and the finding is not quashed or if the appeal is against a penalty, affirm, annul, reduce or increase the penalty or impose another penalty in its place, and may recommend to the Board the suspension or expulsion of the student from the University.

(4) The decision of a Disciplinary Committee on an appeal under subclause (3) is final.

(5) An appeal against a finding of misconduct or a penalty, or both, made or imposed by:

- (a) the Vice-Chancellor; or
- (b) by a Disciplinary Committee which has heard the matter at first instance,

may be made to the Appeals Committee.

(6) The Appeals Committee hearing an appeal under subclause (5) shall hear the matter afresh and may:

- (a) if the appeal is against a finding of misconduct, confirm, quash or vary the finding of misconduct; and
- (b) if the appeal is against a finding of misconduct and the finding is not quashed or if the appeal is against a penalty, affirm, annul, reduce or increase the penalty or impose another penalty in its place, and may recommend to the Board the suspension or expulsion of the student from the University.

(7) The decision of the Appeals Committee on an appeal is final.

(8) No appeal lies in relation to any decision made by the Board or the Standing Committee of the Board when exercising any of its functions for the purposes of clause 7.

Application of justice, equity and good conscience

11. (1) In dealing with a charge of misconduct, a person or body authorised by or under this By-law to adjudicate on the matter shall proceed in all respects according to the justice of the case and shall decide the matter according to equity and good conscience.

(2) A student shall be treated as innocent of any charge of misconduct until the contrary has been established in accordance with the procedures prescribed by this By-law and the rules.

Rules regarding discipline

12. (1) The Board may make rules not inconsistent with the Act or any By-law for regulating the discipline of the University and for carrying out or giving effect to this By-law.

(2) Nothing in this By-law affects the power of any duly authorised person or body:

- (a) to administer any University rule; or
 - (b) to withdraw a student from a course, or otherwise deal with a student, by reason of the student's failure to satisfy academic requirements.
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EXPLANATORY NOTE

The object of this By-law is to revise and consolidate various By-laws applying to the University of New England, its network members and Orange Agricultural College, namely, By-laws relating to:

- (a) convocation;
 - (b) degrees, diplomas and the certificates;
 - (c) the Seal and arms of the University;
 - (d) enrolment of students;
 - (e) fees and charges; and
 - (f) student conduct.
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