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**CURTIN UNIVERSITY ACT 1966**

It is hereby notified that the Governor in Executive Council, acting under the provisions of section 35 of the *Curtin University Act 1966*, has approved Statute No. 5—Election of Council Members—as set out in the attached schedule.

SUE ELLERY, MLC, Minister for Education and Training.

N. HAGLEY, Clerk of the Executive Council.

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**CURTIN UNIVERSITY ACT 1966****STATUTE NO. 5—ELECTION OF COUNCIL MEMBERS****CONTENTS****PART 1—PRELIMINARY**

- 1.1 Short title
- 1.2 Commencement
- 1.3 Purpose
- 1.4 Terms used
- 1.5 Interpretation

**PART 2—RETURNING OFFICER AND ELECTORAL ROLLS**

- 2.1 Returning Officer
- 2.2 Electoral rolls
- 2.3 Registered graduate electors

**PART 3—NOTICE OF ELECTION AND NOMINATIONS**

- 3.1 Election timetable
- 3.2 Call for nominations
- 3.3 Nominations
- 3.4 Candidate's profile
- 3.5 Withdrawal of a nomination
- 3.6 Insufficient candidates

**PART 4—ELECTIONS**

- 4.1 Elected unopposed
- 4.2 Election
- 4.3 Notice of election
- 4.4 Ballot form
- 4.5 Ballot webpage
- 4.6 Application
- 4.7 Electronic voting
- 4.8 Marking of the ballot form
- 4.9 Application
- 4.10 Postal voting
- 4.11 Replacement of voting material
- 4.12 Ballot box
- 4.13 Returning Officer to determine

**PART 5—SCRUTINY AND COUNTING OF VOTES**

- 5.1 Scrutineers
- 5.2 Postal voting procedures
- 5.3 Counting of votes
- 5.4 Postal voting—informal ballot forms
- 5.5 Declaration and notification of election result

**PART 6—MISCELLANEOUS**

- 6.1 Electronic systems or facilities
- 6.2 Election costs
- 6.3 Right of appeal
- 6.4 Giving documents
- 6.5 Rules
- 6.6 Revocation

**SCHEDULE—COUNTING OF VOTES**



## CURTIN UNIVERSITY ACT 1966

## STATUTE NO. 5—ELECTION OF COUNCIL MEMBERS

## PART 1—PRELIMINARY

**1.1 Short title**

This Statute is *Statute No. 5—Election of Council Members*.

**1.2 Commencement**

This Statute take effect on the day after publication in the *Government Gazette*.

**1.3 Purpose**

The purpose of this Statute is to establish a framework for the election of those Council members who are elected members.

**1.4 Terms used**

(1) In this Statute—

**academic staff** means academic staff of the University for the purposes of section 9(1)(c) of the Act;

**academic staff candidate** means a member of the academic staff who has been nominated for an academic staff election and whose nomination has not been rejected or withdrawn;

**academic staff election** means an election for the office of a Council member under section 9(1)(c) of the Act;

**academic staff elector** means a person whose name appears on the academic staff electoral roll;

**academic staff electoral roll** means the electoral roll of that description referred to in section 2.2;

**Act** means the *Curtin University Act 1966*;

**ballot box** means the ballot box referred to in section 4.12;

**ballot form** means the ballot form referred to in section 4.4;

**ballot webpage** has the meaning given in section 4.5;

**candidate** means, depending on the context, one or more of—

- (a) an academic staff candidate;
- (b) a graduate candidate;
- (c) a non-academic salaried staff candidate;
- (d) a postgraduate student candidate; and
- (e) an undergraduate student candidate;

**close of nominations** means the time and date, specified in the notice of election, that is the end of the period for lodging nominations in relation to the election;

**Council member** has the meaning given in section 4(1) of the Act;

*Note*—section 4(1) of the Act defines ‘member’ to mean—

‘a member of the Council’.

**Deputy Returning Officer** means a person appointed under section 2.1(3);

**elected member** means a Council member whose eligibility for membership is based on their election under section 9(1) of the Act;

*Note*—section 9(1) of the Act states—

(1) The Council consists of the following members—

...

- (c) one person who is a member of the academic staff of the University and who is elected by the academic staff of the University in the manner prescribed by Statute;
- (d) 2 persons who are enrolled students—
  - (i) one of whom is an undergraduate student and who is elected by the undergraduate students in the manner prescribed by Statute; and
  - (ii) one of whom is a postgraduate student and who is elected by the postgraduate students in the manner prescribed by Statute;

(e) one person who is a member of the non-academic salaried staff of the University, and who is elected by the non-academic salaried staff of the University in the manner prescribed by Statute;

(f) 2 persons who are graduates of the University and who are elected by the graduates of the University in the manner prescribed by Statute’.

**election** means, depending on the context, one or more of—

- (a) an academic staff election;
- (b) a graduate election;
- (c) a non-academic salaried staff election;
- (d) a postgraduate student election; and
- (e) an undergraduate student election;

**elector** means, depending on the context, one or more of—

- (a) an academic staff elector;
- (b) a registered graduate elector;
- (c) a non-academic salaried staff elector;
- (d) a postgraduate student elector; and
- (e) an undergraduate student elector;

**electoral roll** means an electoral roll referred to in section 2.2;

**graduate** means a graduate of the University for the purposes of section 9(1)(f) of the Act;

**graduate candidate** means a registered graduate elector who has been nominated for a graduate election and whose nomination has not been rejected or withdrawn;

**graduate election** means an election for the office of a Council member under section 9(1)(f) of the Act;

**graduate electoral roll** means the electoral roll of that description referred to in section 2.2;

**mark**, in relation to a ballot form in an electronic voting election, includes indicate as permitted under the electronic voting system;

**material personal interest** means an interest that could adversely affect, or could reasonably be perceived to adversely affect, the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association;

**nominations period** means the period during which a nomination for a candidate may be made;

**non-academic salaried staff** means the non-academic salaried staff of the University for the purposes of section 9(1)(e) of the Act;

**non-academic salaried staff candidate** means a member of the non-academic salaried staff who has been nominated for a non-academic salaried staff election and whose nomination has not been rejected or withdrawn;

**non-academic salaried staff election** means an election for the office of a Council member under section 9(1)(e) of the Act.

**non-academic salaried staff elector** means a person whose name appears on the non-academic salaried staff electoral roll;

**non-academic salaried staff electoral roll** means the electoral roll of that description referred to in section 2.2;

**notice of election** means a notice published by the Returning Officer under section 4.3;

**postgraduate student** means a postgraduate student of the University for the purposes of section 9(1)(d)(ii) of the Act;

**postgraduate student candidate** means a postgraduate student who has been nominated for a postgraduate student election and whose nomination has not been rejected or withdrawn;

**postgraduate student election** means an election for the office of the Council member under section 9(1)(d)(ii) of the Act;

**postgraduate student elector** means a person whose name appears on the postgraduate student electoral roll; and

**postgraduate student electoral roll** means the electoral roll of that description referred to in section 2.2;

**previous Statute No. 5** means *Statute No. 5—Election of Council Members*, which was published in the *Government Gazette* on 24 July 2020;

**registered graduate elector** means a graduate whose name, relevant contact details and student identity number are registered on the graduate electoral roll under section 2.3;

**Returning Officer** means the person engaged or appointed under section 2.1;

**scrutineer** means a scrutineer appointed under section 5.1;

**staff identity number** means the number assigned by the University to a staff member as a means of uniquely identifying the member;

**staff member** means a member of the academic staff or a member of the non-academic salaried staff;

**student** means an enrolled student as defined in section 4(1) of the Act;

*Note*—section 4(1) of the Act defines ‘enrolled student’ to mean ‘a student enrolled in the University’.

**student identity number** means the number assigned to a student as a means of uniquely identifying the student;

**undergraduate student** means an undergraduate student for the purposes of section 9(1)(d)(i) of the Act;

**undergraduate student candidate** means an enrolled student who has been nominated for an undergraduate student election and whose nomination has not been rejected or withdrawn;

**undergraduate student election** means an election for a Council member under section 9(1)(d)(i) of the Act;

**undergraduate student elector** means a person whose name appears on the undergraduate student electoral roll;

**undergraduate student electoral roll** means the electoral roll of that description referred to in section 2.2; and

**voting period** means the period during which votes may be cast in an election.

(2) Unless otherwise defined in subsection (1), a term used in this Statute has the meaning given in the Act or in *Statute No. 2—Interpretation*.

### 1.5 Interpretation

Where there is a reference in this Statute to a number of working days, that number does not include—

- (a) a Saturday, Sunday or public holiday throughout the State;
- (b) the 5-day period each year that commences on Good Friday and ends on (but does not include) the Wednesday after its commencement; or
- (c) the 16-day period each year that commences—
  - (i) where Christmas Day is on a Saturday—on that Saturday; or
  - (ii) where Christmas Day is not on a Saturday—on the Saturday immediately before Christmas Day,

and ends on (but does not include) the third Monday after its commencement.

## PART 2—RETURNING OFFICER AND ELECTORAL ROLLS

### 2.1 Returning Officer

(1) The Vice-Chancellor is—

- (a) to appoint an employee of the University; or
- (b) to engage the Electoral Commissioner for Western Australia,

to be the Returning Officer for an election.

(2) The Returning Officer is responsible for conducting the election for which they have been appointed or engaged.

(3) A Returning Officer who is appointed under section 2.1(1)(a) may—

- (a) appoint one or more Deputy Returning Officers; and
- (b) engage other employees of the University,

to assist the Returning Officer in conducting an election.

(4) A person is ineligible—

- (a) to be the Returning Officer or a Deputy Returning Officer for an election; or
- (b) to assist with the conduct of an election,

if they have a material personal interest in, or in connection with, the election.

(5) The Returning Officer may—

- (a) delegate to a Deputy Returning Officer, or to any other person, any of the Returning Officer’s functions under this Statute; and
- (b) authorise a Deputy Returning Officer, or any other person, to carry out, on behalf of the Returning Officer, any of the Returning Officer’s functions under this Statute.

### 2.2 Electoral rolls

(1) The Vice-Chancellor must ensure that for each election, there is to be kept and maintained—

- (a) an academic staff electoral roll—recording the names, relevant contact details and staff identity numbers of all academic staff;
- (b) a graduate electoral roll—recording the names, relevant contact details and student identity numbers of all registered graduate electors;
- (c) a non-academic salaried staff electoral roll—recording the names, relevant contact details and staff identity numbers of all non-academic salaried staff;

- (d) a postgraduate student electoral roll—recording the names, relevant contact details and student identity numbers of all postgraduate students; and
  - (e) an undergraduate student electoral roll—recording the names, relevant contact details and student identity numbers of all undergraduate students.
- (2) As soon as practicable after the opening of nominations for an election, the Vice-Chancellor must give the Returning Officer the relevant electoral roll for that election that is certified by the Vice-Chancellor to be true and correct.
- (3) In the period between the close of nominations and the start of the voting period for an election, the Vice-Chancellor must give the Returning Officer the names and other details described in section 2.2(1) of any person who—
- (a) was omitted in error from the electoral roll given to the Returning Officer under section 2.2(2); or
  - (b) has ceased to be eligible to be on the electoral roll given to the Returning Officer under section 2.2(2).

### **2.3 Registered graduate electors**

- (1) A graduate may, at any time, make a written request to the Vice-Chancellor to be registered on the graduate electoral roll.
- (2) If the Vice-Chancellor is satisfied that the person making the request is a graduate, the Vice-Chancellor is to ensure that the graduate's name, relevant contact details and student identity number are registered on the graduate electoral roll.

## **PART 3—NOTICE OF ELECTION AND NOMINATIONS**

### **3.1 Election timetable**

In respect of each election, the Returning Officer must determine the time and date for—

- (a) the commencement of the nominations period—which is to be no more than 5 working days after the publication of the call for nominations under section 3.2;
- (b) the nominations period—which is to be at least 10 working days;
- (c) the close of nominations;
- (d) the commencement and close of the voting period (if required) which—
  - (i) is to commence as soon as practicable but no later than 15 working days after the close of nominations; and
  - (ii) is to close at 5.00 pm on the 10th working day after the date of commencement; and
- (e) the counting of votes—which is to be no later than 5 working days after the close of the voting period.

### **3.2 Call for nominations**

- (1) The Returning Officer must publish a call for nominations.
- (2) The call for nominations must set out—
- (a) the vacant position or positions;
  - (b) the term of the vacant positions or positions;
  - (c) how nominations are to be made;
  - (d) where nominations are to be lodged;
  - (e) the time and date for the commencement and close of the nominations period;
  - (f) an invitation to those eligible for election to lodge a nomination for the vacant position or positions;
  - (g) that, if the number of nominations received exceeds the number of vacant positions, an election will be held, and when that election is to be held or is likely to be held; and
  - (h) that, in the case of a graduate election, a graduate who wishes to be a candidate or who wishes to vote in the election must ensure that they are registered on the graduate electoral roll under section 2.3.
- (3) The call for nominations must be published—
- (a) on the University's website; or
  - (b) in any other way that, in the opinion of the Returning Officer, is reasonable in the circumstances.
- (4) The call for nominations must be published, in accordance with this section—
- (a) not more than 16 weeks, and not less than 4 weeks before a vacancy is to occur due to effluxion of time; or
  - (b) within 4 weeks of a vacancy occurring for any other reason.

### **3.3 Nominations**

- (1) For an election other than a graduate election, an elector may nominate themselves, or another elector, to be a candidate for the election.



- (2) For a graduate election—
- (a) a graduate may nominate a registered graduate elector to be a candidate for the election; and
  - (b) a registered graduate elector may nominate themselves, or another registered graduate elector, to be a candidate for the election.
- (3) The nomination of a candidate for an election is not valid unless the nomination—
- (a) is in writing;
  - (b) specifies the vacant position of the Council member to which the nomination relates;
  - (c) is made, and signed, by an elector for that election;
  - (d) includes a statement, signed by the candidate, that the candidate—
    - (i) is an elector for that election (and, for the avoidance of doubt, in the case of a graduate election, is a registered graduate elector);
    - (ii) is willing to accept the position if elected;
    - (iii) is eligible to be elected;
    - (iv) if elected, would be available, for the duration of the term of office, to attend meetings of the Council at their own cost; and
    - (v) if elected, would continue to be eligible to occupy the position for the duration of the term of office;
  - (e) is received by the Returning Officer—
    - (i) at the place; and
    - (ii) before the close of nominations, specified in the notice of election; and
  - (f) complies with any other requirements in the notice of election.
- (4) A person cannot be nominated as a candidate for an election if the person has been nominated as a candidate for another election to be held during the same or a similar voting period. For example, in respect of the same or a similar voting period, a candidate for the election of a graduate cannot also be a candidate for the election of a postgraduate student.
- (5) An elector may nominate for an election more than one candidate but the number of candidates nominated cannot exceed the number of vacant positions of elected member for that election.
- (6) The Returning Officer must reject any nomination that, in their opinion, does not comply with this Statute.
- (7) Before rejecting a nomination, the Returning Officer may notify the candidate and give that candidate the opportunity to remedy the non-compliance within a specified period.
- (8) The rejection of a nomination by the Returning Officer—
- (a) is to be final and conclusive in respect of that nomination; and
  - (b) does not preclude a fresh nomination being lodged, before the close of nominations, by the same elector in respect of the same, or another, candidate.
- (9) As soon as practicable after receiving a valid nomination, the Returning Officer must send to each candidate a written acknowledgment of the receipt of the candidate's nomination.

### 3.4 Candidate's profile

- (1) A candidate who wishes their candidature to be supported by a profile must, before close of nominations, give the Returning Officer a statement that—
- (a) is in the English language and does not exceed 150 words in length;
  - (b) is confined to a description of the candidate and of the candidate's qualifications, skills and experience relevant to the Council and does not contain information that the Returning Officer considers to be false, misleading or defamatory;
  - (c) includes the candidate's full name (in the form in which they have asked for it to be included on the ballot form), contact details (such as telephone number, email address or residential address) and staff or student identity number; and
  - (d) may include a recent passport sized photograph (in a format determined by the Returning Officer) of the candidate's head or head and shoulders.
- (2) The Returning Officer may—
- (a) reject any part of the statement under subsection (1) that, in the Returning Officer's opinion, is false, misleading or defamatory;
  - (b) determine that, in order to ensure fairness between candidates, a name, or part of a name, is inappropriate for inclusion on the ballot form;
  - (c) accept the statement as the candidate's profile to be included in the material sent to electors under section 4.7(1) or section 4.10(1)(e); or
  - (d) reject the passport-sized photograph if, in the Returning Officer's opinion, it is not suitable for publication.
- (3) Before taking action under paragraph (a), (b) or (d) of subsection (2), the Returning Officer may notify the candidate and give them the opportunity to remedy the defect within a specified period.

(4) Where all or part of a candidate's statement has been rejected under this section, the candidate may give to the Returning Officer a replacement statement but must do so before the close of nominations.

(5) Unless it has been accepted by the Returning Officer under this section, a candidate's profile must not be used in or for the purposes of an election.

### **3.5 Withdrawal of a nomination**

(1) A candidate for an election may, by a written notice that is given to the Returning Officer before the close of nominations, withdraw their nomination or their consent to the nomination.

(2) The effect of a notice given under this section is that the candidate is considered not to have been nominated and the Returning Officer must omit the name of the candidate from the ballot form.

### **3.6 Insufficient candidates**

If, at the close of nominations for an election, there is no candidate for the election, the Returning Officer is to inform the Vice-Chancellor and the Chancellor.

## **PART 4—ELECTIONS**

### *Division 1—General provisions*

#### **4.1 Elected unopposed**

If, at the close of nominations for an election, the number of candidates does not exceed the number of vacant positions for that election, the Returning Officer must—

- (a) within 2 working days—declare the candidate or candidates to be elected unopposed; and
- (b) as soon as practicable—
  - (i) prepare a declaration that includes the name and term of office of each candidate declared elected;
  - (ii) give written notice of the declaration to the Chancellor, the Vice-Chancellor and each of the candidates; and
  - (iii) publish the declaration in a form and manner that the Returning Officer considers to be appropriate.

#### **4.2 Election**

(1) If, at the close of nominations for an election, the number of candidates exceeds the number of vacant positions for that election, the Returning Officer must—

- (a) conduct an election in accordance with this Statute; and
- (b) unless subsection (2) applies, determine that the election is to be by way of electronic voting.

(2) If the Returning Officer considers that, in all the circumstances, it would be impracticable or inappropriate for an election to be by way of electronic voting, the Returning Officer must determine that the election is to be conducted by way of—

- (a) postal voting; or
- (b) any other form of voting that is approved by the Council in accordance with section 4.13.

#### **4.3 Notice of election**

(1) Where an election is to be held, the Returning Officer must publish a notice of election.

(2) The notice of election must set out—

- (a) the intention to hold an election;
- (b) the names of the candidates for that election;
- (c) the time and date for the commencement and close of the voting period;
- (d) the manner in which the election will be conducted; and
- (e) in the case of a graduate election, notification that a graduate who wishes to vote in the election must be registered on the graduate electoral roll under section 2.3—by a date specified by the Returning Officer that is before the commencement of the voting period.

#### **4.4 Ballot form**

For the purpose of conducting an election, the Returning Officer must ensure that there is a ballot form containing the names of the candidates for that election in the order that is assigned randomly (in the case of an electronic voting election) or determined by the Returning Officer by lot (in the case of postal voting or other approved form of voting).

#### **4.5 Ballot webpage**

(1) The Returning Officer is to ensure that, for the purposes of each election, there is a ballot webpage that is accessible by each elector for that election.

(2) The ballot webpage is to include or provide access to the details referred to in section 4.7(2).

### *Division 2—Electronic voting*

#### **4.6 Application**

This Division applies where the Returning Officer determines that an election is to be by way of electronic voting.

#### 4.7 Electronic voting

- (1) At least 3 working days before the commencement of the voting period in respect of an election, the Returning Officer must—
- (a) send by email to each elector for that election an electronic link to access the ballot webpage; or
  - (b) send to each elector who does not have an email account the same materials as would be sent to an elector in a postal election under section 4.10(1).
- (2) The Returning Officer must also ensure that the ballot webpage provides access to—
- (a) the candidate's profile (if any) for that election that has been accepted by the Returning Officer under section 3.4;
  - (b) instructions relating to the voting process; and
  - (c) any other requirements, such as requirements relating to the identification of the elector that must be complied with if a vote is to be valid.
- (3) For the purpose of casting a vote at the election, an elector must—
- (a) mark their vote on the ballot form in the manner set out in section 4.8;
  - (b) comply with any instructions or requirements referred to in subsection (2); and
  - (c) submit the completed ballot form so that it is received by the Returning Officer before the close of the voting period.

#### 4.8 Marking of the ballot form

- (1) If there is only one vacant position to be filled and there are not more than 2 candidates, an elector must mark their vote on the ballot form by placing the numeral '1' opposite the name of the candidate for whom the elector votes.
- (2) If there is only one vacant position to be filled and there are more than 2 candidates, an elector—
- (a) must mark their vote on the ballot form by placing the numeral '1' opposite the name of the candidate for whom the elector votes as first preference; and
  - (b) may give contingent votes for any or all of the remaining candidates by placing the numerals '2', '3' and so on (as the case requires) opposite their names, so as to indicate by such numerical sequence the order of the elector's preference.
- (3) If there are 2 vacant positions to be filled, the elector—
- (a) must mark their vote on the ballot form by placing the numeral '1' opposite the name of the candidate for whom the elector votes as first preference and the numeral '2' opposite the name of the candidate for whom the elector votes as second preference; and
  - (b) may give contingent votes for any or all of the remaining candidates by placing the numerals '3', '4' and so on (as the case requires) opposite their names, so as to indicate by such numerical sequence the order of the elector's preference.
- (4) In cases of doubt, the Returning Officer must determine the validity of an elector's vote and that determination is to be final and conclusive.

#### *Division 3—Postal voting*

#### 4.9 Application

This Division applies, and section 4.8 also applies, where the Returning Officer determines that an election is to be by way of postal voting.

#### 4.10 Postal voting

- (1) At least 5 working days before the commencement of the voting period in respect of an election, the Returning Officer is to send to each elector for that election—
- (a) a ballot form, on which is endorsed the initials of the Returning Officer, or a facsimile of those initials;
  - (b) an envelope for the purpose of enclosing the ballot form;
  - (c) an envelope addressed to the Returning Officer;
  - (d) a counterfoil in a form determined by the Returning Officer, to be completed and signed by the elector;
  - (e) the candidates' profiles (if any), for that election, that have been accepted by the Returning Officer under section 3.4; and
  - (f) any instructions that the Returning Officer considers to be appropriate relating to the voting process.
- (2) For the purposes of casting a vote at the election, an elector must, in the following order—
- (a) mark their vote on the ballot form in the manner set out in section 4.8;
  - (b) place the ballot form in the envelope and seal the envelope;
  - (c) complete and sign the counterfoil in accordance with any instructions given by the Returning Officer;
  - (d) place the sealed envelope containing the ballot form and the counterfoil in the envelope addressed to the Returning Officer and seal that envelope; and
  - (e) return the envelope addressed to the Returning Officer, with its enclosures, to the Returning Officer at the address shown on the envelope but so that the envelope is received by the Returning Officer no later than the time specified for the close of the voting period.

#### 4.11 Replacement of voting material

(1) If, before the closing of the election period at an election, an elector advises the Returning Officer in writing that—

- (a) the elector has not received a ballot form and is entitled to vote at the election; or
- (b) the ballot form or an envelope received by the elector has been lost or destroyed,

the Returning Officer may give to the elector a further ballot form and envelope or envelopes.

(2) The Returning Officer is to do all that is reasonably necessary, in their opinion, to facilitate the casting of a vote by an elector.

#### 4.12 Ballot box

The Returning Officer must place and keep in a sealed ballot box, until it is opened under section 5.2, all envelopes purporting to contain ballot forms received by the Returning Officer under section 4.10 before the close of the voting period.

### *Division 4—Other forms of voting*

#### 4.13 Returning Officer to determine

If, under section 4.2(2)(b), the Returning Officer considers that an election should be conducted by way of any other form of voting, the Returning Officer must—

- (a) consult with the Electoral Commissioner for Western Australia; and
- (b) seek the approval of the Council for how the election is to be conducted.

### PART 5—SCRUTINY AND COUNTING OF VOTES

#### 5.1 Scrutineers

(1) In the case of a postal election, a candidate for the election may, by written notice to the Returning Officer, appoint any other person to be his or her scrutineer for the election.

(2) A scrutineer for the election appointed under subsection (1)—

- (a) may be present while the Returning Officer carries out their functions under sections 5.2 and 5.3;
- (b) may direct the attention of the Returning Officer to—
  - (i) any irregularity concerning the issue of a ballot form;
  - (ii) the admission of any envelope to scrutiny;
  - (iii) the admission of a ballot form as formal;
  - (iv) the rejection of a ballot form as informal; or
  - (v) the counting of the vote;
- (c) must not touch any ballot form or envelope containing any ballot form; and
- (d) must comply with a request made, or a direction given, by the Returning Officer.

(3) If a scrutineer—

- (a) interrupts or interferes with the scrutiny or counting otherwise than in accordance with section 5.1(2)(b); or
- (b) fails to carry out a lawful request or direction by the Returning Officer,

the Returning Officer may direct the scrutineer to leave the place where the scrutiny and counting is being conducted.

#### 5.2 Postal voting procedures

(1) If an election has been conducted by postal voting then, at the time and on the date determined by the Returning Officer under section 3.1 for the counting of votes—

- (a) the Returning Officer must open the ballot box;
- (b) the Returning Officer must determine, in relation to each envelope, whether—
  - (i) the counterfoil has been completed and signed by the elector and includes their name and the staff or student identity number as appropriate for the election; and
  - (ii) the person named on the counterfoil is an elector for that election;
- (c) if each element of paragraph (b) has been satisfied, the Returning Officer must—
  - (i) indicate, against the name of the elector on the electoral roll, that that elector has voted;
  - (ii) remove (without opening) from the counterfoil, the envelope enclosing the ballot form; and
  - (iii) separately set aside, for safekeeping, both the counterfoil and the envelope containing the ballot form; and
- (d) if any element of paragraph (b) has not been satisfied, the Returning Officer must—
  - (i) replace the counterfoil and the envelope enclosing the ballot form in the outer envelope; and
  - (ii) mark the outer envelope 'Rejected', together with the reason for the rejection, initial it and set it and its contents aside for safekeeping.

- (2) When all envelopes have been checked under subsection (1), the Returning Officer must—
- (a) open the envelopes containing the ballot forms set aside under section 5.2(1)(c); and
  - (b) proceed with the scrutiny and counting of the ballot forms contained in those envelopes in accordance with section 5.3.

### **5.3 Counting of votes**

- (1) The Returning Officer must ensure that—
- (a) in the case of electronic voting, votes are counted electronically using the optional preferential system; and
  - (b) in the case of any other form of voting, including postal voting, votes are counted in accordance with the methodology in the Schedule.
- (2) In relation to the ballot forms referred to in section 5.2(2), the Returning Officer must—
- (a) scrutinise each of the ballot forms and set aside any that are informal under section 5.4; and
  - (b) count and record the number of first preference votes for each candidate.
- (3) The Schedule has effect.

### **5.4 Postal voting—informal ballot forms**

- (1) In the case of a postal voting election, a ballot form is informal if it -
- (a) is not marked substantially in accordance with the instructions of the Returning Officer on, or in respect of, the ballot form;
  - (b) is marked substantially otherwise than in accordance with the instructions of the Returning Officer on, or in respect of, the ballot form; or
  - (c) does not bear the initials of the Returning Officer or a facsimile of those initials.
- (2) Where, during the scrutiny, the Returning Officer is informed by a scrutineer that the scrutineer objects to a ballot form being admitted as formal, or being rejected as informal, the Returning Officer must decide the matter and—
- (a) in the case of a postal voting ballot form, endorse their decision on the back of the ballot form; or
  - (b) in any other case, ensure that their decision is appropriately referenced to the ballot form.
- (3) The Returning Officer's determination whether a ballot form is formal or informal is to be final and conclusive.

### **5.5 Declaration and notification of election result**

After the counting of votes has been completed, the Returning Officer must—

- (a) within 2 working days—declare the result of the election; and
- (b) as soon as practicable—
  - (i) prepare a declaration that includes the name and term of office of each candidate declared elected;
  - (ii) give written notice of the declaration and the number of votes received by each candidate to the Chancellor, the Vice-Chancellor and each of the candidates; and
  - (iii) publish the declaration in the form and manner that the Returning Officer considers to be appropriate.

## **PART 6—MISCELLANEOUS**

### **6.1 Electronic systems or facilities**

The Returning Officer may use whatever electronic systems or facilities, such as the internet, that they consider to be appropriate to conduct an election or to assist in the conduct of an election, such as the distribution and receipt of ballot forms and the counting of votes.

### **6.2 Election costs**

- (1) All reasonable costs, charges and expenses incurred by the Returning Officer, a Deputy Returning Officer, or an employee acting on behalf of the Returning Officer or a Deputy Returning Officer, in connection with the conduct of an election, as certified in writing by the Returning Officer, are to be paid by the University, or reimbursed by the University to the Returning Officer, the Deputy Returning Officer or the employee, as the case may be.
- (2) The Returning Officer is to notify the Vice-Chancellor of all costs, charges and expenses certified under subsection (1).

### **6.3 Right of appeal**

- (1) A candidate in an election has a right of appeal in respect of the conduct of the election.
- (2) The right of appeal—
- (a) where the Returning Officer is the Electoral Commissioner for Western Australia—is to the person nominated by the Electoral Commissioner for Western Australia; and
  - (b) where the Returning Officer is an employee of the University—is to the person nominated by the Vice-Chancellor.

(3) An appeal is exercisable by the candidate lodging, with the person conducting the appeal, within 7 days of the date of the declaration of the election, a written notice of appeal that specifies all the grounds on which it is alleged that the election was not conducted in accordance with this Statute.

(4) The person conducting the appeal, after making whatever enquiries into the matter that they consider appropriate, is either—

- (a) to confirm the election result; or
- (b) to declare that the election is annulled and direct that a fresh election be held.

#### 6.4 Giving documents

(1) If the Vice-Chancellor or the Returning Officer is required or permitted to give a document to an elector or any other person under this Statute, the document may be given—

- (a) by email or any other form of electronic transmission; or
- (b) in any of the other ways provided by sections 75 and 76 of the *Interpretation Act 1984*.

*Note:* Sections 75 and 76 of the *Interpretation Act 1984* state—

##### **75. Service of documents by post**

(1) Where a written law authorises or requires a document to be served by post, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, service shall be deemed to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and, unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.

(2) Where a written law authorises or requires a document to be served by registered post, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail.

(3) Subsections (1) and (2) apply unless the contrary intention appears and subsection (2) does not apply where a written law requires the production of an acknowledgment signed by a person to whom a document was addressed to the effect that the document was delivered to that person.

##### **76. Service of documents generally**

Where a written law authorises or requires a document to be served, whether the word *serve* or any of the words *give*, *deliver*, or *send* or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served—

- (a) by delivering the document to them personally; or
- (b) by post in accordance with section 75(1) of the *Interpretation Act 1984*; or
- (c) by leaving it for them at their usual or last known place of abode or, if they are a principal of a business, at their usual or last known place of business; or
- (d) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State.’

(2) A document given by the Vice-Chancellor or the Returning Officer is not ineffective, nor is it to be regarded as having not been properly given, only because of an error, misdescription or irregularity in the document or the way it is addressed that is not likely to mislead or does not in fact mislead.

(3) An election is not to be invalidated by reason of an inadvertent failure to give an elector any document required by this Statute.

#### 6.5 Rules

The Council may make rules, not inconsistent with the Act or any Statute—

- (a) to regulate, or provide for the regulation of, the election of those Council members who are elected members; and
- (b) to carry out or give effect to this Statute.

#### 6.6 Revocation

Previous Statute No. 5 and Previous Statute No. 9 are revoked.

*Note—*

*Previous Statute No. 9* means—

- (a) *Statute No. 9—Election of Student Members on the Council*, which came into force on 16 September 2005; and
- (b) *Rule No. 1 Made Pursuant to Statute No. 9—Election of Student Members on the Council*, which came into force on 16 September 2005.

**Schedule**  
COUNTING OF VOTES  
*Division 1—Preliminary*

**1. Terms used in this Schedule**

(1) In this Schedule—

**continuing candidate** means a candidate who has not already been elected or excluded from the count;

**exhausted ballot form** means a ballot form that does not express a preference for a continuing candidate;

**first preference vote** received by a candidate means a vote cast by an elector that indicates that the candidate ranks highest in the order of the elector's preference for the candidates;

**total vote** means the total number of all the first preference votes received by continuing candidates; and

**vacancy** means the vacant position of the office of Council member in respect of which the election is being held.

(2) A reference in this Schedule to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer under this Schedule.

*Division 2—Election for one vacancy*

**2. Application of Division**

This Division applies to an election in respect of one vacancy.

**3. One vacancy and 2 candidates**

(1) If there is only one vacancy and there are 2 candidates—

(a) the Returning Officer is to ascertain the number of votes received by each candidate; and

(b) the candidate who has the greater number of votes is elected.

(2) If the candidates have an equal number of votes, the Returning Officer is to draw lots to determine which candidate is elected.

**4. One vacancy and 3 or more candidates**

Clauses 5 to 9 apply if there are 3 or more candidates for one vacancy.

**5. Count of first preference votes**

(1) The Returning Officer is to ascertain the number of first preference votes received by each candidate and the total vote.

(2) If the number of first preference votes received by a candidate is more than half of the total vote, the candidate is elected.

**6. Exclusion of candidate and transfer of votes if vacancy remains**

(1) If no candidate is elected under clause 5, the candidate who has the fewest first preference votes is excluded and all of that candidate's votes are to be dealt with as follows—

(a) any exhausted ballot forms are to be excluded from the remaining count and the total vote is to be recalculated;

(b) any ballot forms of the excluded candidate that express the first preference vote for the excluded candidate and the next available preference for a particular continuing candidate are to be transferred to the continuing candidate; and

(c) the total number of ballot forms that are transferred to a continuing candidate under paragraph (b) is to be added to the number of votes of the continuing candidate.

(2) If the number of votes that a continuing candidate has received on the completion of the transfer under subclause (1) is more than half of the total vote, the candidate is elected.

**7. Further exclusions if necessary**

(1) If, after the transfer of all the votes of an excluded candidate, the office has not been filled, the candidate who has the fewest votes is excluded and all of that candidate's votes are to be dealt with as follows—

(a) any exhausted ballot forms are to be excluded from the remaining count and the total vote is to be recalculated;

(b) any ballot forms of the excluded candidate that express the first preference vote for the excluded candidate and the next available preference for a particular continuing candidate are to be transferred to the continuing candidate;

(c) the total number of ballot forms that are transferred to a continuing candidate under paragraph (b) is to be added to the number of votes of the continuing candidate;

(d) any ballot forms previously transferred to the excluded candidate under this Division that express the next available preference for a particular continuing candidate are to be transferred to the continuing candidate; and

(e) the total number of ballot forms that are transferred to a continuing candidate under paragraph (d) is to be added to the number of votes of the continuing candidate.

(2) If the number of votes that a continuing candidate has received on the completion of the transfer under subclause (1) is more than half of the total vote, the candidate is elected.

#### **8. Filling vacancy if 2 candidates have equal votes after a transfer**

If there are only 2 continuing candidates and each has received the same number of votes on the completion of a transfer under clause 6(1) or 7(1), the Returning Officer is to draw lots to determine which candidate is elected.

#### **9. Procedure to determine excluded candidate if votes equal**

If the candidate who has the fewest votes is required to be excluded under clause 6(1) or 7(1), and 2 or more candidates (**tied candidates**) have an equal number of votes (no other candidate having fewer votes), the Returning Officer is to draw lots to determine which of the tied candidates is excluded.

### *Division 3—Election for 2 vacancies*

#### **10. Application of Division**

This Division applies to an election in respect of 2 vacancies.

#### **11. Count of first preference votes**

(1) The Returning Officer is to ascertain the number of first preference votes received by each candidate and the total vote.

(2) If the number of first preference votes received by a candidate is more than half of the total vote, the candidate is elected.

#### **12. Election of first successful candidate**

Unless clause 11(2) applies, the first successful candidate is to be elected in accordance with the procedures set out in clauses 6—9 of this Schedule.

#### **13. Election of second successful candidate**

(1) If, after the election of the first successful candidate, there is only one continuing candidate, the continuing candidate is elected.

(2) Unless subclause (1) applies, all of the first successful candidates' votes must be dealt with as follows—

- (a) any exhausted ballot forms are to be excluded from the remaining count and the total vote is to be recalculated;
- (b) any ballot forms of the first successful candidate that express the first preference vote for the first successful candidate and the next available preference for a particular continuing candidate must be transferred to the continuing candidate; and
- (c) the total number of ballot forms that are transferred to a continuing candidate under paragraph (b) is to be added to the number of votes of the continuing candidate.

(3) If the number of votes that a continuing candidate has received on the completion of the transfer under subclause (2) is more than half of the total vote, the candidate is elected.

(4) If, after the transfer of all the votes of the first successful candidate, the second vacancy has not been filled, the candidate who has the fewest votes is excluded and all of that candidate's votes are to be dealt with as follows—

- (a) any exhausted ballot forms are to be excluded from the remaining count and the total vote is to be recalculated;
- (b) any ballot forms of the excluded candidate that express the first preference vote for the excluded candidate and the next available preference for a particular continuing candidate are to be transferred to the continuing candidate;
- (c) the total number of ballot forms that are transferred to a continuing candidate under paragraph (b) is to be added to the number of votes of the continuing candidate;
- (d) any ballot forms previously transferred to the excluded candidate under this Division that express the next available preference for a particular continuing candidate are to be transferred to the continuing candidate; and
- (e) the total number of ballot forms that are transferred to a continuing candidate under paragraph (d) is to be added to the number of votes of the continuing candidate.

(5) If the number of votes the continuing candidate has received on the completion of the transfer under subclause (4) is more than half the total vote, the candidate is elected.

#### **14. Filling vacancy if 2 candidates have equal votes after a transfer**

If there are only 2 continuing candidates and each has received the same number of votes on the completion of a transfer under clause 13(2) or 13(4), the Returning Officer is to draw lots to determine which candidate is elected.

#### **15. Procedure to determine excluded candidate if votes equal**

If the candidate who has the fewest votes is required to be excluded under clause 13(4), and 2 or more candidates (**tied candidates**) have an equal number of votes (no other candidate having fewer votes) the Returning Officer is to draw lots to determine which of the tied candidates is excluded.



The Common Seal of Curtin University was affixed on 10 December, 2020, by the authority of the Vice-Chancellor.

J. CORDERY, Vice-Chancellor.

A. DONALD, Administrative Secretary.

#### Revision History

Revision Ref No	Approved/Rescinded	Date	Committee/Board	Resolution Number	Document Reference
NEW	Established	19/03/1969	Council	I/C 59/69	No Document Reference
	Gazetted	11/06/1969			
	Amended	19/11/1969	Council	C 241/69	Via amending Statute No. 2 (amendment specified in Resolution/no document reference)
	Amended	20/10/1971	Council	C 101/71	Amendments to Statutes 5, 6 and 7. <i>Government Gazette</i> indicates approval was actually for Amending Statute No. 5 (to amend Statutes 1, 2, 3 and 5) and Amending Statute No. 6 (to amend Statute No. 7)
	Amended	21/10/1981	Council	C 147/81	Document 4544/81
	Gazetted	18/12/1981			
	Amended	26/11/1986	Council	C 280/86	Amending Statute No 7 (Document 62/86)
	Gazetted	19/12/1986			
	Amended	27/07/1999	Council	C 98/99	Document 42/99
	Gazetted	19/10/1999			
	Amended	17/10/2001	Council	C 83/01	Document 41/01
	Gazetted	24/05/2001			
	Amended	08/12/2004	Council	C 110/04 (ii)	Document C100/04
	Gazetted	27/05/2005			
	Repealed	08/12/2004	Council	C 110/04 (i)	Document C100/04
	Gazetted	16/09/2005			
	Established	22/06/2005	Council	C 100/04	Document C100/04
	Gazetted	16/09/2005			
	Amended	25/10/2006	Council	C 150/06 (ii)	Miscellaneous Statutes Amendment Statute 2006—Document 01106/06
	Gazetted	16/03/2007			
	Amended	18/03/2020	Council	C 62/20	Attachment A to Item 8.8.1
	Gazetted	24/07/2020			
	Disallowed	26/11/2020			Government gazettal 2020/198 01/12/2020
	Amended	04/12/2020	Council	C183/20	Document 8.2.1
	Gazetted				