

# CURTIN UNIVERSITY ACT 1966

## STUDENT GUILD RULES

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# CURTIN UNIVERSITY ACT 1966

## STUDENT GUILD RULES

These Rules are made by the Council of the University under the powers conferred on it by section 19 of *Statute No. 4 – Student Guild* and in accordance with section 34 of the *Curtin University Act 1966*.

### Part 1 - Preliminary

#### 1. Short title

These are the *Student Guild Rules*.

#### 2. Commencement

These Rules take effect –

- (a) when they are promulgated in accordance with *Statute No. 3 – Rules*; or
- (b) on the commencement of *Statute No. 4 – Student Guild* which revokes Previous Statute No. 4,

whichever is the later.

#### 3. Terms used

- (1) In these Rules –

***Statute No. 4*** means *Statute No. 4 – Student Guild*;

***absolute majority*** has the meaning given to it in Statute No. 4;

*Note: absolute majority, in relation to a meeting of the Guild Council, is defined in section 4 of Statute No. 4 to mean -*

*“...a majority of all of the members of the Guild Council for the time being holding office, regardless of the number attending the meeting of the Guild Council (and, for the avoidance of doubt, no casting vote is to be counted)”.*

***Guild*** has the meaning given to it in Statute No. 4;

*Note: Guild is defined in section 4 of Statute No. 4 to mean –*

*“...the Student Guild established by section 44 of the Act upon the making of the original Statute No. 4 on 14 January 1969”.*

***Guild Council*** has the meaning given to it in Statute No. 4;

*Note: Guild Council is defined in section 4 of Statute No. 4 to mean –*

*“... the governing body of the Guild as described in section 9”.*

**Guild regulations** has the meaning given to it in Statute No. 4;

*Note: Guild regulations is defined in section 4 of Statute No. 4 to mean –*

*“... regulations made by the Guild under section 10”.*

**Officer** has the meaning given to it in Statute No. 4.

*Note: Officer is defined in section 4 of Statute No. 4 to mean –*

*“... a person who -*

- (a) is a member of the Guild;*
- (b) is a member of the Guild Council or holds any other Guild position as a result of being elected or appointed to that position in accordance with the Guild regulations; and*
- (c) is not an employee of the Guild”.*

**President** has the meaning given to it in Statute No. 4;

*Note: President is defined in section 4 of Statute No. 4 to mean –*

*“the president of the Guild”.*

**Previous Statute No. 4** has the meaning given to it in Statute No. 4;  
and

*Note: Previous Statute No. 4 is defined in section 4 of Statute No. 4 to mean –*

*“... Statute No. 4 – Student Guild, published in the Government Gazette on 18 December 1981”.*

**Secretary** has the meaning given to it in Statute No. 4;

*Note: Secretary is defined in section 4 of Statute No. 4 to mean –*

*“the secretary of the Guild”.*

**University Council** has the meaning given to it in Statute No. 4.

*Note: University Council is defined in section 4 of Statute No. 4 to mean –*

*“... the Council of the University under the Act”.*

- (2) Other definitions that are relevant to these Rules are contained in section 4 of Statute No. 4.

## **Part 2 - Guild**

### **4. Not-for-profit body**

- (1) The property and income of the Guild must be applied solely towards the promotion of the objects or purposes of the Guild and no part of that property or income may be paid or otherwise

distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.

- (2) A payment may be made to a member out of the funds of the Guild only if it is authorised under subrule (3).
- (3) A payment to a member out of the funds of the Guild is authorised if it is —
  - (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Guild, or for goods supplied to the Guild, in the ordinary course of business;
  - (b) the payment of interest, on money borrowed by the Guild from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia;
  - (c) the payment of reasonable rent to the member for premises leased by the member to the Guild; or
  - (d) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Guild.

### **Part 3 - Duties of Officers and others**

#### **Division 1 – General duties**

##### **5. Duties**

- (1) Each Officer —
  - (a) must at all times act honestly in the performance of the functions of the Officer, whether within or outside the State;
  - (b) must at all times exercise the degree of care and diligence in the performance of the functions of the Officer, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise;
  - (c) must at all times act in the best interests of the Guild and give precedence to the interests of the Guild over the interests of any person appointing or electing the Officer;
  - (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of the Officer to gain, directly or indirectly, an advantage for any person or to cause detriment to the Guild; and

- (e) must not, whether within or outside the State, make improper use of the position of the Officer to gain, directly or indirectly, an advantage for any person or to cause detriment to the Guild.
- (2) Nothing in subrule (1) affects —
  - (a) any other duty the Officer may have under any other law; or
  - (b) the operation of any other law in relation to such a duty.

### **Division 2 - Disclosure of interests**

#### **6. Disclosure of interests**

- (1) A Guild Council member who has a material personal interest in a matter being considered or about to be considered by the Guild Council must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the Guild Council.
- (2) A disclosure under subclause (1) must be recorded in the minutes of the meeting.

#### **7. Voting by interested Guild Council members**

A Guild Council member who has a material personal interest in a matter that is being considered by the Guild Council —

- (a) must not vote whether at a meeting or otherwise —
  - (i) on the matter; or
  - (ii) on a proposed resolution under rule 9 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
  - (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),

is being considered at a meeting.

#### **8. Rule 7 may be declared inapplicable**

Rule 7 does not apply if the Guild Council has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

#### **Part 4 - Guild regulations**

### **9. Terms used and interpretation**

- (1) In this Part –

***Confirmed Resolution*** means a resolution confirmed under rule 10(d)(ii) or rule 10(e)(ii) or (iii);

***Notice to Members*** means a notice to members of the Guild that they are entitled to have the Resolution considered at a general meeting of the Guild if a Request Notice is given to the Secretary;

***Period*** means the period of 14 days after the date on which the publication of the Notice to Members first satisfies rule 10(b);

***Publish*** means publish on the Guild website or as otherwise determined, from time to time, by the University Council;

***Request Notice*** is a notice that –

- (a) requests a general meeting of the Guild to consider a Resolution;
- (b) is in the form of a petition with the names, student numbers and signatures of not less than 100 members of the Guild;
- (c) clearly states, on each page, that the notice requests a general meeting to consider the Resolution and the reasons that the members object to the Resolution; and
- (d) is given to the Secretary within the Period; and

***Resolution*** means a resolution of the Guild Council to make, amend or revoke a Guild regulation.

- (2) Where there is a reference in this Part to a number of days, that number does not include –

- (a) the month of January;
- (b) the 5-day period each year that commences on Good Friday and continues to and including the Tuesday after its commencement; or
- (c) the 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 continues to and including the end of December.

## **10. Procedures**

Guild regulations may be made, amended or revoked only in accordance with the following procedure –

- (a) a Resolution must be passed by an absolute majority of the Guild Council;
- (b) the Secretary must Publish the Resolution and a Notice to Members;
- (c) if there is no Request Notice, the Resolution is taken to be confirmed on the expiry of the Period;
- (d) if there is a Request Notice –
  - (i) the Resolution must be considered within 14 days, either at the next general meeting of the Guild or at a special general meeting convened by the Guild Council for the purpose; and
  - (ii) the Resolution is taken to be confirmed –
    - (A) if it is passed by a majority of the members of the Guild present at the meeting under paragraph (d)(i); or
    - (B) if no quorum is present within 30 minutes of the advertised commencement time of a meeting under paragraph (d)(i);
- (e) if a Resolution is amended by a majority at a meeting under paragraph (d)(i) –
  - (i) the amended Resolution must be considered at the next meeting of the Guild Council;
  - (ii) if the amended Resolution is passed by an absolute majority of the Guild Council, it will be taken to be confirmed;
  - (iii) if the amended Resolution is not passed by an absolute majority of the Guild Council, it must be put to a referendum of members of the Guild

within 3 months of the decision of the Guild Council; and

- (iv) if, at a referendum of the members of the Guild, the amended Resolution receives majority support, it will be taken to be confirmed;
- (f) a Confirmed Resolution must be submitted to the University Council which may –
  - (i) approve it;
  - (ii) approve it subject to suggested amendments that, in the opinion of the University Council, are consistent with the functions of the Guild under Statute No. 4 and are not materially inconsistent with the underlying purpose or object of the Confirmed Resolution (**Suggested Amendments**); or
  - (iii) decline to approve it;
- (g) if a Confirmed Resolution is approved by the University Council, it will be taken to make, amend or revoke (as the case may be) the Guild regulation to which it relates with effect on the day after it is approved, or such a later date as may be specified in the Confirmed Resolution; and
- (h) if a Confirmed Resolution is approved subject to Suggested Amendments, the Guild Council may, by absolute majority, accept the Suggested Amendments and, in that case, the Confirmed Resolution, as amended by the Suggested Amendments, will be taken to make, amend or revoke (as the case may be) the Guild Regulation to which it relates with effect on the day after it is accepted by the Guild Council, or such later date as may be specified in the Confirmed Resolution.

## **Part 5 - Investigations and responses**

### **11. Investigations**

- (1) This rule applies where the Vice-Chancellor becomes aware of any matter (including any financial, electoral or governance irregularity) that, in the opinion of the Vice-Chancellor –
  - (a) may adversely affect the performance of the functions of the Guild; and
  - (b) appears to be of a serious nature.

- (2) Where this rule applies, the Vice-Chancellor may engage an appropriately qualified external expert (**Investigator**) to carry out an investigation into the matter (**Investigation**).
- (3) Before engaging the Investigator, the Vice-Chancellor must consult –
  - (a) with the President; or
  - (b) where the President may have a conflict of interest or is unavailable - with another member of the Guild Council; or
  - (c) where each member of the Guild Council may have a conflict of interest or is unavailable – with the person in the position (or the nearest equivalent position) of the managing director of the Guild.
- (4) If the Vice-Chancellor engages an Investigator, notice of the Investigation must be given to the University Council and the Guild Council.
- (5) If the University Council suspects on reasonable grounds that the Guild Council, or one or more members of the Guild Council, may interfere with the Investigation or act against the interests of the Guild during the Investigation, the University Council may, for the period of the Investigation and the consideration of its response under rule 12 (but not exceeding a period of 3 months) –
  - (a) suspend the Guild Council, or one or more members of the Guild Council (as the case may be); and
  - (b) where the Guild Council is suspended – appoint an administrator with power to do all things necessary or convenient to be done in relation to the management of the affairs of the Guild.
- (6) An Officer or a Guild employee must –
  - (a) give to the Investigator, or allow the Investigator to have access to, any document, information or property that is under their custody or control and that is reasonably required by the Investigator;
  - (b) do anything necessary to enable the Investigator to have access to any document, information or property in or under the custody or control of another person and that the Investigator may reasonably require; and
  - (c) as far as reasonably practicable, cooperate with and assist the Investigator.

- (7) The duties of an Officer or a Guild employee under rule 11(6) in respect of an Investigation also apply in respect of an administrator appointed under rule 11(5)(b) or rule 12(2)(a).
- (8) The Investigator must comply with the principles of procedural fairness.
- (9) The University is to pay the costs of an Investigator engaged under this Rule.

**12. Response to Investigation**

- (1) As soon as practicable after the Investigation has been completed –
  - (a) the Vice-Chancellor, to the extent necessary to comply with the principles of procedural fairness, is to give to the Guild Council (or if it has been suspended, to the administrator) –
    - (i) notice of the findings and recommendations of the Investigator; and
    - (ii) a reasonable opportunity to respond to the findings and recommendations;
  - (b) the Vice-Chancellor is to give a report to the University Council on the Investigation, including the findings and recommendations of the Investigator and any response from the Guild Council; and
  - (c) the University Council is to decide what action or actions are to be taken in response to the Investigation.
- (2) Among the actions that may be taken in response to the Investigation are –
  - (a) to suspend the Guild Council and to appoint, for a specified temporary period, an administrator with power to do all things necessary or convenient to be done in relation to the management of the affairs of the Guild;
  - (b) to remove one or more Officers;
  - (c) to suspend one or more Officers for a temporary specified period;
  - (d) to direct the carrying out of a fresh election in accordance with the Guild regulations, under the supervision of the University or an independent firm of accountants or lawyers or other appropriately qualified person (such as the Electoral Commission), of all or any elected members of the Guild Council or other Officers who are elected; and

- (e) to appoint, for a specified temporary period, an external auditor for ongoing monitoring and appraisal of the Guild.
- (3) For the purposes of this rule, the University Council may extend a specified temporary period on one or more occasions.
- (4) As soon as practicable after the University Council has decided what action or actions are to be taken in response to the Investigation, the Vice-Chancellor –
  - (a) is to advise the Guild Council of the action or actions; and
  - (b) to the extent appropriate, is to ensure that all students are notified of the Investigation and its findings and recommendations, and of the action or actions taken in response to the Investigation.

### **Part 6 - Dispute resolution**

#### **13. Resolution of disputes between the University and the Guild**

- (1) If the University and the Guild are unable to reach agreement on any matter affecting the exercise of the Guild's functions, they must enter into good faith negotiations with the objective of reaching agreement on that matter.
- (2) If, after 21 calendar days from commencing negotiations, the University and the Guild are still unable to reach agreement, the University and the Guild must endeavour to reach agreement by mediation to be conducted (over a period not more than 21 days) by a mediator independent of the parties, appointed by agreement of the parties or, failing agreement, by a person appointed by the Institute of Arbitrators and Mediators Australia.
- (3) The mediation must be conducted in accordance with, and subject to, the mediation rules of the Institute of Arbitrators and Mediators Australia.
- (4) The University and Guild must each appoint 2 representatives to participate in the mediation.
- (5) Unless otherwise agreed by the University and the Guild, the costs incurred in the mediation are to be borne equally by the University and the Guild.
- (6) Other than in respect of proceedings for urgent interlocutory or declaratory relief, the University or the Guild must not commence arbitration or litigation proceedings in respect of a dispute until it has first complied with the mediation process under this rule.
- (7) The provisions of this rule 13 do not affect the exercise, at any time, of the powers of the Vice-Chancellor under Part 4 of these Rules.

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The Common Seal of **CURTIN UNIVERSITY** )  
was affixed on the )  
day of 2018 )  
by the authority of the Vice-Chancellor )

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Vice-Chancellor

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Administrative Secretary