

THE AUSTRALIAN NATIONAL UNIVERSITY

INFORMATION INFRASTRUCTURE AND SERVICES RULE 2015

I, Professor Ian Young AO, Vice-Chancellor of the Australian National University, make the following rule.

Dated 15 December 2015

Professor Ian Young AO

Vice-Chancellor

TABLE OF CONTENTS

PART 1 - PRELIMINARY	4
1 NAME.....	4
2 COMMENCEMENT.....	4
3 AUTHORITY.....	4
4 DEFINITIONS.....	4
5 RESPONSIBLE OFFICERS	5
PART 2 - INFORMATION INFRASTRUCTURE: ACCESS AND USE	5
6 INFORMATION INFRASTRUCTURE: ACCESS AND USE	5
7 AUTHORISED AND PUBLIC ACCESS.....	5
8 AUTHENTICATION.....	6
9 SYSTEM SECURITY	6
10 PUBLICATION OF MATERIAL.....	7
11 USE OF EQUIPMENT AND SOFTWARE	7
12 DEVELOPMENT OF SOFTWARE	7
13 ACCESS TO REMOTE SERVICES FROM THE UNIVERSITY.....	7
14 EXAMINATION OF INFORMATION.....	7
15 APPLICATION OF FURTHER CONDITIONS	7

PART 3 - PARTICULAR CONTRAVENTIONS IN RELATION TO INFORMATION INFRASTRUCTURE	8
16 CONTRAVENTION: USE FOR GAIN	8
17 CONTRAVENTION: COPYING ETC.	8
18 CONTRAVENTION: SUBVERTING ETC.	8
19 CONTRAVENTION: OFFENSIVE MESSAGES OR MATERIAL ETC.	9
20 CONTRAVENTION: MISREPRESENTATION	9
21 CONTRAVENTION: DAMAGE TO INFORMATION INFRASTRUCTURE ETC.	9
PART 4 – LIBRARY AND LIBRARY COLLECTIONS	9
22 APPLICATION OF PART 4	9
23 DELEGATION BY LIBRARIAN	9
24 RETURN OR RECALL OF BORROWED ITEMS	10
25 LOSS OR DESTRUCTION OF BORROWED ITEMS	10
26 DAMAGE TO LIBRARY ITEMS ETC.	10
27 CONDUCT OF PERSONS IN LIBRARY PREMISES	11
PART 5 – DEALING WITH CONTRAVENTIONS	11
28 HOW CONTRAVENTIONS MAY BE DEALT WITH	11
PART 6 - PENALTIES	12
29 PENALTIES FOR CONTRAVENTIONS	12
30 PENALTIES THAT MAY BE IMPOSED	12
31 AMOUNT OF COMPENSATION	13
32 IMPOSITION OF PENALTIES	13
33 SUSPENSION FROM INFORMATION INFRASTRUCTURE	14
PART 7 - APPEALS	14
34 INFORMATION INFRASTRUCTURE AND SERVICES APPEALS COMMITTEE	14
35 APPEAL BY PERSON AGAINST WHOM FINDING IS MADE	14
36 APPEAL BY EXECUTIVE DIRECTOR	14
37 CONDUCT OF APPEAL BY APPEALS COMMITTEE	15
38 REPRESENTATION AT APPEALS COMMITTEE HEARINGS	15
39 DECISION OF APPEALS COMMITTEE	15
PART 8 - MISCELLANEOUS	16
40 APPROVED FORMS	16
41 DELEGATION BY VICE-CHANCELLOR	16
42 SERVICE OF NOTICES ETC.	16
43 ORDERS	17

44	REPEAL ETC.....	17
45	TRANSITIONAL	17

PART 1 PRELIMINARY

1 Name

This is the *Information Infrastructure and Services Rule 2015*.

2 Commencement

This instrument commences on 1 January 2016.

3 Authority

This instrument is made under section 5 of the *Information Infrastructure and Services Statute 2012*.

[Note: Under section 50(3) of the *Australian University Act 1991* a statute may empower any authority or officer of the University to make rules or orders. Section 9.5 of the Vice-Chancellorship Statute authorises the Vice-Chancellor to make rules and orders for a number of statutes, including the Information Infrastructure and Services Statute.]

4 Definitions

In this instrument:

account means an account assigned to a user under section 7(4) (Authorised and public access).

Appeals Committee means the Information Infrastructure and Services Appeals Committee established by section 34(1).

Executive Director means the Executive Director (Administration and Planning).

exercise a function includes perform the function.

function includes duty and power.

item includes a book, periodical, newspaper, thesis, pamphlet, musical score, map, plan, chart or table, sound recording, cinematograph film, audio-visual material, electronic material, digital material and microform material.

Librarian means the University Librarian.

library collection includes a collection of items.

order means an order made under or for the purposes of this instrument.

password, in relation to a user, means a password or other form of authentication, described in section 8 (Authentication), to a part of the information infrastructure authorised under section 7 (Authorised and public access) for use by the user.

prescribed by order includes worked out in accordance with an order.

responsible officer, for a provision of this instrument, means a person appointed under section 5(1) as a responsible officer for that provision.

this instrument includes the orders.

user means a person (wherever located) who accesses the information infrastructure.

working day means a day that is not a Saturday, a Sunday, a public holiday in the Australian Capital Territory, or a University holiday.

[Note: The Information Infrastructure and Services Statute defines the following terms that are relevant to this instrument: ***information, information infrastructure, information services*** and ***Library***.]

5 Responsible officers

- (1) The Executive Director may, in writing, appoint a person to be a responsible officer for a provision of this instrument.
- (2) The Executive Director may not personally exercise the functions of a responsible officer.

PART 2 INFORMATION INFRASTRUCTURE: ACCESS AND USE

6 Information infrastructure: access and use

- (1) A user must not use the information infrastructure in a way that is:
 - (a) unethical; or
 - (b) not in accordance with the law (including a statute, rule or order of the University); or
 - (c) detrimental to the rights and property of others.
- (2) A responsible officer may give a user access to all or a particular part of the information infrastructure, depending on the user's individual work or study requirements.
- (3) If a user is permitted to access the information infrastructure jointly with other users, each joint user is responsible for anything done, or omitted to be done, on the information infrastructure by any of the joint users during a period of permitted joint access.
- (4) If a user is uncertain about whether the user is authorised to use any part of the information infrastructure, the user must obtain the advice of a responsible officer or a person appointed, in writing, by a responsible officer as a person responsible for that part of the information infrastructure.

7 Authorised and public access

- (1) A person must not use the information infrastructure unless:
 - (a) the person is authorised to do so by a responsible officer; or
 - (b) the service used by the person is for public use.
- (2) An authorised user must not contravene a University policy, procedure or standard about the use of the information infrastructure.
- (3) A person must not:
 - (a) use, or permit anyone else to use, the information infrastructure or any part of the information infrastructure, unless the person is authorised to do so; or
 - (b) use another user's account; or
 - (c) use, for unauthorised purposes, any part of the information infrastructure that the person is authorised to use; or
 - (d) without authority or lawful excuse, disturb anyone else using the information infrastructure or any part of the information infrastructure; or
 - (e) cause a nuisance in premises that are part of the information infrastructure; or
 - (f) attempt to do anything prohibited under paragraphs (a) to (e).

(4) A responsible officer, or a person appointed, in writing, by a responsible officer for the purpose, may assign an account to a user to enable the user to access part of the information infrastructure.

(5) A user must provide proof of the user's identity if required by a member of staff of the University.

(6) If an authorised user of the information infrastructure is not a member of the staff or student of the University (a **priority user**), the user must, if requested by a priority user, cede use of the information infrastructure to the priority user, unless a responsible officer otherwise directs.

(7) If a person on University premises contravenes section 6(1) (Information infrastructure: access and use) or subsection (1), (2), (3), (5) or (6) of this section, any member of the staff of the University may direct the person to leave the premises.

(8) If a person is given a direction under subsection (7), the person must immediately leave the premises and not re-enter the premises for 24 hours without a responsible officer's prior permission.

8 Authentication

(1) Access to some parts of the information infrastructure may be regulated by password or other form of authentication supplied to a user by the responsible officer or by someone else appointed, in writing, by the responsible officer for the purpose.

(2) If a password or other form of authentication is personal to its user, the user must not make it available to anyone else.

9 System security

(1) If a user inadvertently obtains information to which the user is not entitled, or becomes aware of a breach of security relating to any part of the information infrastructure, the user must immediately report the matter to a responsible officer or a person appointed, in writing, by a responsible officer as a person responsible for that part of the information infrastructure.

(2) A user must not:

- (a) find out a password or another authentication credential for a part of the information infrastructure that the user is not authorised to use; or
- (b) introduce malicious software (for example, a computer virus, ransomware, spyware, a Trojan horse or a worm) into any part of the University's network or any of the University's equipment, whether or not the equipment is connected to the network; or
- (c) copy, disclose, transfer, examine, rename, change, add to or delete information on the information infrastructure belonging to someone else (including the University) without the information owner's express permission, unless it is part of the user's duties as a member of the staff of the University to do so; or
- (d) collect or discard any analogue, digital, electronic, printed or magnetic output from the information infrastructure belonging to someone else (including the University) without the owner's express permission, unless it is part of the user's duties as a member of the staff of the University to do so; or
- (e) attempt to do anything prohibited under paragraphs (a) to (d).

(3) A user must not do anything, or omit to do anything, that adversely affects the security of the information infrastructure or any part of the information infrastructure.

10 Publication of material

- (1) If a user creates, or is responsible for, material sent over or published on the information infrastructure, the user must present the material in a professional way that upholds the reputation of the University.
- (2) A user must not send material over, or publish material on, the information infrastructure that misrepresents, or could reasonably mislead anyone else about, the user's identity or the user's position in or connection with the University.

11 Use of equipment and software

- (1) A user must not exceed the user's allocation on any machine governed by allocation of resources to individuals or groups (for example, supercomputer time allocation).
- (2) If a user becomes aware of an abuse of a shared resource, the user must immediately report the matter to a responsible officer or a person appointed, in writing, by a responsible officer as a person responsible for the relevant part of the information infrastructure.
- (3) If a user is provided by the University with, or with access to, software to be used on the information infrastructure, the user must comply with the *Copyright Act 1968* in relation to the software and with all relevant terms of any licence agreement for the software given to the user.

12 Development of software

If a user develops software with potential commercial value on, or using, the information infrastructure, the user must comply with the University's statutes, rules, orders, policies, procedures and standards about intellectual property in relation to the software.

13 Access to remote services from the University

A user must not, without authority or lawful excuse, interfere with any information or information service at another site accessed using the information infrastructure.

[Note: Information services at another site may also be covered by relevant legislation or applicable policies administered by the other site.]

14 Examination of information

- (1) If the Executive Director believes, on reasonable grounds, that the information infrastructure is being or has been used in contravention of an industrial award, enterprise agreement or workplace agreement, a statute, rule or order of the University, or any other law, the Executive Director may, in writing, appoint a member of the staff of the University to examine information stored on the information infrastructure.
- (2) If a member of the staff of the University is appointed under subsection (1) to examine information stored on the information infrastructure, the staff member must comply with the provisions of the *Privacy Act 1988* in relation to information obtained through the examination except in relation to its disclosure for purposes of substantiating, or taking action in relation to, a contravention mentioned in that subsection.

15 Application of further conditions

- (1) A responsible officer may apply further conditions to the use of a particular information service.
- (2) If a user of an information service knows that further conditions have been applied under subsection (1) to the use of the service, the user must comply with the conditions.

PART 3 PARTICULAR CONTRAVENTIONS IN RELATION TO THE INFORMATION INFRASTRUCTURE

16 Contravention: use for gain

A user must not intentionally or recklessly use, or attempt to use, any part of the information infrastructure for personal or private gain, or for a financial gain to a third party, without the prior approval of a responsible officer.

17 Contravention: copying etc.

A user must not:

- (a) copy any information on the information infrastructure belonging to another user without the other user's express permission, unless it is part of the user's duties as a member of the staff of the University to do so; or
- (b) copy any software located, or for use, on the computer infrastructure without the consent of the licensor of the software, unless it is part of the user's duties as a member of the staff of the University to do so; or
- (c) copy any information belonging to the University that the user is not authorised to access or to copy (including copying that would cause the University to be in breach of a licence agreement); or
- (d) using the information infrastructure, make anything available in contravention of the *Copyright Act 1968*; or
- (e) otherwise contravene the *Copyright Act 1968* in relation to information on, or by using, the information infrastructure; or
- (f) attempt to do anything prohibited under paragraphs (a) to (e).

18 Contravention: subverting etc.

(1) A person must not subvert, or attempt to subvert, the security of any part of the information infrastructure.

(2) A person must not, without authority or lawful excuse:

- (a) destroy, erase or alter information on, or insert information into, any part of the information infrastructure; or
- (b) interfere with, interrupt or obstruct the operation or lawful use of any part of the information infrastructure; or
- (c) destroy, erase, alter or add to information stored on behalf of the University; or
- (d) impede or prevent access to, or impair the usefulness or effectiveness of, data stored on any part of the information infrastructure or information stored on behalf of the University; or
- (e) attempt to do anything prohibited under paragraphs (a) to (d).

19 Contravention: offensive messages or material etc.

(1) A user must not use the information infrastructure:

- (a) in a way that brings the University into disrepute; or
- (b) to publish or send spam; or

- (c) to publish or send a message or material to someone else, whether at the University or elsewhere, if the message or material is obscene, offensive, harassing, threatening or defamatory.
- (2) A user must not publish or send spam, or a message or material of a kind mentioned in subsection (1)(c), on a network connected to the information infrastructure, whether or not it identifies the user as affiliated with the University.
- (3) A user must not publish or send, through equipment that is not part of the University's information infrastructure, spam, or a message or material of a kind mentioned in subsection (1)(c), if the spam, message or material associates the University with the spam, message or material.

20 Contravention: misrepresentation

- (1) A person must not falsely represent that the person is someone else, whether fictional or not:
 - (a) to obtain access to the information infrastructure or any part of it; or
 - (b) in publishing or sending any message or material on the information infrastructure.
- (2) A person must not falsely represent that the person is the author of any work or material, or the owner of any information or anything else, on the information infrastructure.

21 Contravention: damage to information infrastructure etc.

A person must not intentionally or recklessly:

- (a) damage any part of the information infrastructure, including, for example, any hardware, software, or digital or print media, that forms part of the infrastructure; or
- (b) erase, delete or damage any information through the information infrastructure.

PART 4 LIBRARY AND LIBRARY COLLECTIONS

22 Application of Part 4

This Part applies to all library collections and any part of the information infrastructure in which a part of the library collections is located or through which scholarly information in digital or electronic form is accessed.

23 Delegation by Librarian

The Librarian may, in writing, delegate all or any of the librarian's functions under this Part to a member of the staff of the University.

[Note: The *Acts Interpretation Act 1901* has provisions applying to delegations (see ss. 34AA, 34AB and 34A).]

24 Return or recall of borrowed items

- (1) If a person borrows an item from a library collection, the person must return the item to the Library within the period prescribed by order.
- (2) Despite subsection (1), if a person borrows an item from a library collection, the Librarian may, either orally or by written notice given to the person, recall the item and require the person to return the item to the Library on or before a specified date (or at or before a specified time on a

specified date) that is earlier than the time by which the item would otherwise have been required to be returned to the Library.

(3) Subsection (2) does not apply to a borrowing prescribed by order.

(4) If a person is required under subsection (2) to return an item to the Library, the person must comply with the requirement.

(5) If a person contravenes subsection (1) or (2), without reasonable excuse, by not returning an item to the Library as required, the person must pay to the University the penalty prescribed by order.

(6) If a person is liable to pay the University a penalty under subsection (5) of not less than the amount prescribed by order (or penalties under that subsection totalling not less than that prescribed amount), the person is not entitled to borrow any item from any library collection until the penalty is paid.

25 Loss or destruction of borrowed items

(1) If an item borrowed by a person from a library collection is lost or destroyed, the person:

- (a) must tell the Librarian, in writing, about the loss or destruction of the item as soon as practicable; and
- (b) must pay to the University the penalty, prescribed by order, for the loss or destruction of the item, unless the Librarian otherwise directs in writing.

(2) If a person:

- (a) borrows an item from a library collection; and
- (b) does not return the item, or tell the Librarian in writing about the loss or destruction of the item, within 4 weeks after the day the person was required under section 24 (Return or recall of borrowed items) to return the item to the Library;

the item is to be taken to have been lost.

(3) If a person is liable to pay a penalty to the University under subsection (1)(b), the Librarian may give the person a written notice specifying the amount of the penalty.

(5) The person must pay the specified amount to the University within 20 working days after the day the notice is given to the person.

(6) If the person does not pay the penalty to the University as required by subsection (5), the person is not entitled to borrow any item from the Library collection, or to use the Library or any of the facilities of the Library, until the penalty is paid.

26 Damage to library items etc.

(1) A person must not intentionally, recklessly or negligently damage an item in a library collection or anything else in the Library.

(2) If a person intentionally, recklessly or negligently damages an item in a library collection or anything else in the Library, the person must pay to the University the penalty, prescribed by order, for the damage, unless the Librarian otherwise directs in writing.

(3) If a person is liable to pay a penalty to the University under subsection (2), the Librarian may give the person a written notice specifying the amount of the penalty.

(4) The person must pay the specified amount to the University within 20 working days after the day the notice is given to the person.

(5) If the person does not pay a penalty to the University as required under subsection (4), the person is not entitled to borrow any item from the Library collection, or use the Library or any facilities of the Library, until the penalty is paid.

27 Conduct of persons in Library premises

(1) This section applies to a person who is in any Library premises.

(2) The person must produce proof of the person's identity if required by the Librarian or a member of the staff of University.

(3) The person must permit the Librarian, or a member of the staff of the University, to inspect at any time any bag, folder, container or anything else in the person's possession.

(4) The person must not make any unnecessary noise or otherwise behave in a way that unreasonably disturbs, or is likely to unreasonably disturb, Library users.

(5) If the person contravenes subsection (2), (3) or (4), the Librarian, or a member of the staff of the University, may direct the person to leave the Library premises.

(6) If the person is given a direction under subsection (5), the person must immediately leave the Library premises and must not enter any Library premises for 24 hours without the Librarian's prior permission.

PART 5 DEALING WITH CONTRAVENTIONS

28 How contraventions may be dealt with

(1) If a person contravenes this instrument, the Executive Director may decide that the contravention is to be dealt with under this instrument or may take action to have it dealt with under the Discipline Rule, the Medical Leave Rules or a relevant industrial award, enterprise agreement or workplace agreement.

(2) However, a person may not be held accountable more than once for the same contravention.

(3) To remove any doubt, despite subsection (2):

- (a) a direction may be given under section 7(7) (Authorised and public access) or section 27(5) (Conduct of persons in Library premises), or a suspension imposed under section 33(1) (Suspension from information infrastructure), for a contravention whether or not:
 - (i) the contravention is (or may be) dealt with under this instrument, the Discipline Rule, the Medical Leave Rules or a relevant industrial award, enterprise agreement or workplace agreement; or
 - (ii) a penalty or other amount is (or may be) subsequently imposed or payable for the contravention; and
- (b) a direction or suspension mentioned in paragraph (a) must not be taken into account in imposing any penalty or taking any other action under section 29 (Penalties for contraventions), the Discipline Rule, the Medical Leave Rules, or a relevant industrial award, enterprise agreement or workplace agreement, for the contravention for which the direction was given or the suspension was imposed.

PART 6 PENALTIES

29 Penalties for contraventions

- (1) If a person contravenes a provision of this instrument, the person is liable to the penalty specified for the contravention or, if a penalty is not specified for the contravention, a penalty under section 30(1) (Penalties that may be imposed).
- (2) However, if an act or omission by a person is a contravention of this instrument and an offence against the *Copyright Act 1968*, a financial penalty may not be imposed on the person under section 30(1)(f) for the act or omission if the person is to be prosecuted for an offence against that Act.
- (3) Also, if an act or omission by a person is a contravention of 2 or more provisions of this instrument, the person may be dealt with and a penalty imposed for any of the contraventions, but is not liable to be penalised more than once for the act or omission.

30 Penalties that may be imposed

- (1) If a responsible officer finds that a person contravened this instrument, the responsible officer may, in relation to the contravention:
- (a) decide to take no action; or
 - (b) recommend to the Executive Director that action be taken to have the contravention dealt with under the Discipline Rule, the Medical Leave Rules or an industrial award, enterprise agreement or workplace agreement; or
 - (c) reprimand the person; or
 - (d) direct that the person must not use the information infrastructure, the Library, or a stated part of the information infrastructure or the Library, for a stated period of no longer than 20 working days; or
 - (e) close the person's account; or
 - (f) impose a financial penalty of not more than \$500 on the person; or
 - (g) determine conditions under which the person may have access to, or use, any or a stated part of the information infrastructure or the Library; or
 - (h) decide that compensation is payable by the person to the University for damage to the information infrastructure and, if so, decide the amount of the compensation payable in accordance with section 31(1) (Amount of compensation); or
 - (i) take any combination of the actions mentioned in paragraphs (c) to (h).
- (2) A responsible officer may, in relation to a contravention for which the sole penalty is a financial penalty:
- (a) waive the penalty; or
 - (b) extend the time for payment of the penalty.
- (3) A person must not contravene a direction given to the person under subsection (1)(d).
- (4) A person in relation to whom conditions are determined under subsection (1)(g) must not contravene any of the conditions.
- (5) If a person is liable to pay to the University a financial penalty or other amount under subsection (1) in relation to a contravention, the person must pay to the University the amount

specified in the notice given to the person under section (7) in relation to the contravention within 20 working days after the day the notice is given to the person or, if an appeal is made under Part 7 in relation to the contravention, the day the person is given notice of the decision on the appeal.

(6) If a person does not pay a financial penalty or other amount to the University as required under subsection (5), the person is not entitled to use the information infrastructure until the penalty or other amount is paid, without a responsible officer's prior permission.

(7) If a responsible officer makes a decision under this section in relation to a person, the responsible officer must give written notice of the decision to the person, and the Executive Director, within 7 working days after the day the decision is made.

31 Amount of compensation

(1) If a responsible officer decides under section 30(1)(h) (Penalties that may be imposed) that compensation is payable by a person to the University for damage to the information infrastructure, the amount of the compensation payable is to be decided by the responsible officer in accordance with the following provisions:

- (a) if the responsible officer considers that the damage is repairable—the amount of the compensation payable is the lesser of:
 - (i) the amount that the responsible officer decides is the cost of repairing the damage; and
 - (ii) \$5,000; or
- (b) if the responsible officer considers that the damage is irreparable—the amount of the compensation payable is the lesser of:
 - (i) the amount that the responsible officer decides is the cost (including any reasonable administrative costs) of replacing the relevant part of the information infrastructure (or anything forming part of it); and
 - (ii) \$5,000.

(2) Despite any compensation paid (or payable) by the person under section 30(1)(h) for the damage to the information infrastructure, the University may recover from the person, in a court of competent jurisdiction, as a debt and in addition to the costs of the recovery:

- (a) any unpaid part of the cost of repairing the information infrastructure; or
- (b) any unpaid part of the cost (including any reasonable administrative costs) of replacing the relevant part of the information infrastructure (or anything forming part of it).

32 Imposition of penalties

A penalty may be imposed on a person under section 30(1)(c) to (i) (Penalties that may be imposed) only if:

- (a) the person is given written notice of:
 - (i) the contravention that is alleged to have been committed by the person; and
 - (ii) the penalty that is proposed to be imposed for the contravention (in addition to any suspension under section 33(1) (Suspension from information infrastructure)); and
- (b) the notice is accompanied by a copy of this section and Part 7 (Appeals); and
- (c) a period of not less than 20 working days, or any shorter period agreed to by the person, has elapsed since the day the person is given the notice; and
- (d) the responsible officer has taken into account any written representations made by the person to the responsible officer within the period mentioned in paragraph (c).

33 Suspension from information infrastructure

- (1) If it appears to a responsible officer (or a nominee of the responsible officer) that a person is contravening, or has contravened, this instrument in relation to the information infrastructure, the responsible officer (or nominee) may suspend the person from using the information infrastructure, or a stated part of the information infrastructure, for an initial period of no longer than 20 working days.
- (2) The responsible officer (or nominee) must give written notice of the suspension to the person before, or not later than 1 working day after the day, the suspension takes effect.
- (3) The responsible officer (or nominee) may, at any time while the suspension is in force, extend the suspension until the contravention has been finally dealt with (including any appeal finally decided).
- (4) If the responsible officer (or nominee) extends the suspension, the person must be given written notice of the extension within 7 working days after the day the suspension is extended.
- (5) If a person was given a direction under section 7(7) (Authorised and public access), the direction must not be taken into account for the purposes of this section.

PART 7 APPEALS

34 Information Infrastructure and Services Appeals Committee

- (1) There is to be an Information Infrastructure and Services Appeals Committee.
- (2) For an appeal, the Appeals Committee consists of a chair and 4 other members appointed, in writing, by the Vice-Chancellor for the appeal.
- (3) However, if the appellant is a student, or the appeal is an appeal under section 36 (Appeal by Executive Director) and the relevant contravention is a contravention by a student, the Vice-Chancellor must, after consultation with the President of the Australian National University Students' Association or the Australian National University Postgraduate and Research Students' Association Inc., as the case requires, appoint an appropriate student representative as a member of the Appeals Committee for the appeal.
- (4) Also, if the appellant is a student, or the appeal is an appeal under section 36 (Appeal by Executive Director) and the relevant contravention is a contravention by a student, a person must not be appointed as a member of the Appeals Committee for the appeal if the person is a member of the staff of, or a student in, the same ANU College as the student.

35 Appeal by person against whom finding is made

- (1) If a responsible officer finds that a person has contravened a provision of this instrument, the person may appeal to the Appeals Committee against the finding made or penalty imposed (or both).
- (2) The appeal is made by giving a written notice of appeal to the Vice-Chancellor within 20 working days after the day the person is given written notice of the responsible officer's decision.

36 Appeal by Executive Director

- (1) If:
 - (a) a responsible officer finds that a person has contravened this instrument; and
 - (b) the Executive Director considers that the finding made or penalty imposed is inappropriate in the circumstances of the case;

the Executive Director may, after giving the person the opportunity to be heard, appeal to the Appeals Committee against the finding or penalty (or both).

(2) The appeal must be made by giving a written notice of appeal to the Vice-Chancellor within 20 working days after the day the Executive Director is given written notice of the responsible officer's decision.

37 Conduct of appeal by Appeals Committee

(1) Business may be carried out at a meeting of the Appeals Committee (including any hearing) only if the chair and 2 other members are present.

(2) The Appeals Committee may decide its own procedures in relation to an appeal.

(3) The Appeals Committee is not bound to act in a formal way but may inform itself in any way it considers just.

(4) However, the Appeals Committee must give the appellant (and, if the appellant is the Executive Director, the person found to have committed the relevant contravention) an opportunity to present evidence and make representations.

(5) But, the Appeals Committee must disregard any statement that, in the committee's opinion, has been obtained unfairly or to which it would be unjust to have regard.

(6) A decision of the Appeals Committee is not invalid only because of a formal defect or irregularity in the convening or conduct of the committee.

38 Representation at Appeals Committee hearings

(1) At a hearing by the Appeals Committee, the appellant (or, if the appellant is the Executive Director, the person found to have committed the relevant contravention (the **respondent**)) is entitled to be accompanied by a relevant person.

(2) The relevant person may:

- (a) advise the appellant (or respondent) in relation to the appeal; and
- (b) address the Appeals Committee and examine and cross-examine witnesses on behalf of the appellant (or respondent).

(3) In this section:

relevant person means a person (other than a person acting as a practising lawyer) who is:

- (a) a student; or
- (b) a member of the staff of the University; or
- (c) a member of a registered trade union.

39 Decision of Appeals Committee

(1) The Appeals Committee may:

- (a) confirm the decision appealed against; or
- (b) vary the decision; or
- (c) set aside the decision and make a decision in substitution for the decision set aside; or
- (d) set aside the decision.

- (2) If the Appeals Committee is divided in opinion about the decision to be made on any question, the question must be decided according to the opinion of the majority or, if the members are equally divided in opinion, in favour of the appellant (or, if the appellant is the Executive Director, against the appellant).
- (3) Written copies of the decision of the Appeals Committee and the reasons for the decision must be given to the appellant (or, if the appellant is the Executive Director, the person found to have committed the relevant contravention), and the Executive Director, within 7 working days after the day the decision is made.
- (4) A decision of the Appeals Committee is final.

PART 8 MISCELLANEOUS

40 Approved forms

- (1) The Executive Director or a responsible officer may, in writing, approve forms for this instrument.
- (2) If the Executive Director or a responsible officer approves a form for a particular purpose, the form must be used for that purpose.
- (3) The Executive Director must ensure that approved forms are publicly available on the University's website or any other way that the Executive Director considers appropriate.

41 Delegation by Vice-Chancellor

The Vice-Chancellor may, in writing, delegate all or any of the Vice-Chancellor's functions under this instrument (except the making of orders) to a member of the staff of the University.

42 Service of notices etc.

- (1) This section applies to a notice or other document that is required or permitted to be served on an individual under this instrument (whether the word 'give', 'notify', 'send', 'tell' or another word is used).
- (2) The document may be served on an individual:
- (a) by giving it to the individual; or
 - (b) by sending it by prepaid post, addressed to the individual, to an address shown in the University's records as the individual's semester address, work address or permanent home address; or
 - (c) by emailing it to:
 - (i) if the individual is a student at the University—an email address provided by the University to the individual; or
 - (ii) if the individual is not a student at the University—an email address otherwise recorded by the University as the individual's email address.
- (3) A document served by post on an individual under subsection (2)(b) is taken to have been served on the day it would have been delivered in the ordinary course of post.
- (4) A document served by email on an individual under subsection (2)(c) is taken to have been served on the day it would have been received in the ordinary course of email transmission.

43 Orders

The Vice-Chancellor may make orders about matters mentioned this instrument.

44 Repeal etc.

- (1) The *Information Infrastructure and Services Rules 2012* are repealed.
- (2) To remove any doubt, a reference in a rule, order or other document of the University to the ***Information Infrastructure and Services Rules*** (whether with or without the year of its making or the year and number of the year of its making) includes a reference to this instrument.

45 Transitional

- (1) This instrument does not apply to an act or omission that happened before the commencement of this instrument.
- (2) Despite the repeal of the *Information Infrastructure and Services Rules 2012* (the ***repealed rules***) by this instrument, the repealed rules continue to apply to an act or omission that happened before the commencement of this instrument if the repealed rules applied to the act or omission immediately before that commencement.
- (3) Subsection (2) is additional to, and does not limit, section 7 of the *Acts Interpretation Act 1901*.