

Version No. 063
Melbourne University Act 1958
No. 6405 of 1958

Version incorporating amendments as at 7 September 2007

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Melbourne University Act 1958

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An Act to consolidate the Law relating to the University of
Melbourne.

**BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):**

1 Short title and commencement

This Act may be cited as the **Melbourne
University Act 1958**, and shall come into
operation on a day to be fixed by proclamation of
the Governor in Council published in the
Government Gazette.

S. 1
amended by
Nos 7362
s. 9(1), 7871
s. 3(a)(b), 8638
s. 13(2), 9123
s. 2(a), 10238
s. 10(a).

2 Repeals and savings

- (1) The Acts mentioned in the Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed accordingly.
- (2) Except as in this Act expressly or by necessary implication provided—
 - (a) all persons things and circumstances appointed or created by or under the repealed Acts or existing or continuing under any of such Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they

s. 3

respectively would have had if such Acts had not been so repealed;

- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation order statute degree diploma certificate licence election appointment reconstitution investigation report decision lease mortgage grant of land alienation investment grant loan account liability or right made affected issued entered into granted given paid accrued incurred or acquired or existing or continuing under such repealed Acts before the commencement of this Act.

Nos 3795 s. 3,
5387 s. 2.

S. 3
amended by
No. 9619
s. 2(1)(a).

3 Definitions

- (1) In this Act unless inconsistent with the context or subject-matter—

S. 3(1) def. of
*casual
vacancy*
amended by
Nos 8638
s. 2(a),
105/1994
s. 17(a).

casual vacancy means a vacancy however occurring in the office of any member of the council or of any member of the committee of convocation otherwise than by the retirement of such member on the expiration of his term of office;

council means council as constituted under this Act;

S. 3(1) def. of
diplomate
inserted by
No. 8638
s. 2(b).

diplomate means a person to whom a diploma of the University has been awarded, whether before or after the passing of this Act;

S. 3(1) def. of
Governor
repealed by
No. 57/1996
s. 31.

* * * * *

graduate means a person upon whom has been conferred or who has been admitted without examination to any degree pursuant to any Act relating to the University for the time being in force and whether before or after the passing of this Act;

graduate student means a person (not being an undergraduate student) who is for the time being enrolled as a student at the University in a course or part of a course leading to a master's degree or a doctor's degree or to a diploma or certificate which the Council has designated pursuant to subsection (2)(b) as a post-graduate diploma or post-graduate certificate;

S. 3(1) def. of *graduate student* inserted by No. 7758 s. 2, amended by No. 8638 s. 2(c), substituted by No. 9619 s. 2(1)(b), amended by Nos 10238 s. 4(a), 105/1994 s. 4(1)(a)(i)(ii).

head of an affiliated college means the person who is the Warden of Trinity College, the Master of Ormond College, the Master of Queen's College, the Rector of Newman College, the Principal of the University College, the Principal of St. Hilda's College, the Principal of Whitley College, the Principal of Janet Clarke Hall, the Principal of Ridley College or the Principal of St. Mary's College, respectively, or the person who holds under whatever designation the office corresponding to any of the foregoing offices; and (in the case of any other residential college hereafter affiliated to or connected with the University pursuant to section 18) means the person whom the governing body of that college designates for the purposes of this Act as the head thereof;

S. 3(1) def. of *head of an affiliated college* substituted by No. 9619 s. 2(1)(c), amended by No. 10238 s. 4(b).

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s. 3

S. 3(1) def. of
*member of
the academic
staff*
substituted by
No. 8638
s. 2(d).

member of the academic staff includes *professor*;

S. 3 def. of
Minister
repealed by
No. 46/1998
s. 7(Sch. 1).

* * * * *

S. 3(1) def. of
professor
amended by
No. 8638
s. 2(e)(i).

professor means any member of the academic staff of the University who is entitled to rank as a professor pursuant to statutes of the University (not being an associate professor or a professor emeritus);

professor emeritus means any person on whom pursuant to statutes of the University the title of professor emeritus has been conferred at or after his retirement from his office of professor;

S. 3(1) def. of
student
inserted by
No. 9619
s. 2(1)(d).

student means a graduate student, an undergraduate student or a person designated as a student pursuant to subsection (2)(c);

S. 3(1) def. of
*under-
graduate
student*
substituted by
Nos 8638
s. 2(f), 9619
s. 2(1)(e),
amended by
Nos 10238
s. 4(a),
105/1994
s. 4(1)(b)(i)(ii).

undergraduate student means a person who is for the time being enrolled as a student at the University in a course or part of a course—

- (a) leading to a bachelor's degree or to a diploma or undergraduate certificate which the council has designated pursuant to subsection (2)(b) as an undergraduate diploma or undergraduate certificate; or

-
- (b) prescribed by or under the statutes or regulations as preliminary to a course for a master's degree or a doctor's degree.
- (2) The council may from time to time—
- (a) determine what persons or classes of persons constitute the academic staff of the University for the purposes of this Act; **S. 3(2) amended by No. 8638 s. 2(e)(ii), substituted by No. 9619 s. 2(1)(f).**
 - (b) designate a diploma or certificate which may be awarded to students as a post-graduate diploma or post-graduate certificate or an undergraduate diploma or undergraduate certificate for the purposes of this Act; **S. 3(2)(b) amended by No. 105/1994 s. 4(2)(a)–(c).**
 - (c) designate persons or classes of persons who are neither graduate students nor undergraduate students as students for the purposes of this Act; and
 - (d) designate as members of the University persons or classes of persons who are members of the staffs of residential colleges affiliated to or connected with the University under section 18.
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**PART I—CONSTITUTION AND GOVERNMENT OF THE
UNIVERSITY**

Division 1—The University

4 The University

S. 4
amended by
No. 7545 s. 2,
substituted by
No. 8638 s. 3.

S. 4(1)
amended by
No. 9619
s. 3(1)(a)(b)
(i)(ii).

- (1) A University is hereby declared to have been established on the 11th day of April 1853 at Melbourne. The University shall be a body politic and corporate by the name of "The University of Melbourne" and shall for all purposes be deemed to be the same body corporate and politic as the body under that name consisting formerly of a council and a senate but which shall now and hereafter consist of—
- (a) a council and its members;
 - (b) the graduates;
 - (c) the professors;
 - (d) members of the academic staff;
 - (e) members of the faculties and boards of studies;
 - (f) the graduate students;
 - (g) the undergraduate students;
 - (h) the diplomates;
 - (i) such members of the staff of the University, other than the academic staff, as are designated from time to time by the council;

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s. 4

-
- (j) such members of the staffs of the affiliated colleges as are designated from time to time by the council as members of the University; and
- (k) such students (if any) as are neither graduate students nor undergraduate students.
- (2) The University of Melbourne by such name shall have perpetual succession and shall have a common seal and shall by the same name sue and be sued plead and be impleaded and answer and be answered unto in all courts of Victoria, and shall be capable in law to receive take purchase and hold all goods chattels moneys and personal properties whatsoever, and shall also be able and capable in law to receive take purchase and hold for ever not only such lands buildings hereditaments and possessions as may from time to time be exclusively used and occupied for the immediate requirements of the University but also any other lands buildings hereditaments and possessions whatsoever situate in Victoria or elsewhere, and shall be able and capable in law to grant demise aliene or otherwise dispose of all or any of the property real or personal belonging to the University and also to do all other matters and things incidental or appertaining to a body politic.
- (3) The persons referred to in paragraphs (a) to (k) of subsection (1) shall, subject to subsection (4), be members of the University and be bound by its statutes and regulations.
- S. 4(1)(j)**
inserted by
No. 9619
s. 3(1)(b)(ii).
- S. 4(1)(k)**
inserted by
No. 9619
s. 3(1)(b)(ii).
- S. 4(2)**
amended by
No. 70/1997
s. 24(a).
- S. 4(3)**
amended by
No. 9619
s. 3(1)(c).

s. 4A

- (4) Where a person who is or is to be in a category which by virtue of this section makes or would make him, a member of the University—
- (a) requests the council to permit him to remain or be in that or any other category but not to be considered as a member of the University; and
 - (b) gives reasons justifying his request which are satisfactory to the council—

the council may grant his request if he enters into such undertakings and guarantees as the council may require in order to ensure that he will observe the statutes and regulations of the University as if he were a member thereof.

S. 4(5)
inserted by
No. 9619
s. 3(1)(d).

- (5) All courts and persons acting judicially shall take judicial notice of the common seal of the University affixed to any document and, until the contrary is proved, shall presume that it was duly affixed.

S. 4(6)
inserted by
No. 9619
s. 3(1)(d),
amended by
No. 70/1997
s. 24(b).

- (6) Section 41B(2) does not apply to any lands, tenements or hereditaments which in the opinion of the vice-chancellor and principal were acquired for investment purposes.

S. 4A
inserted by
No. 26/2003
s. 17.

4A Objects of the University

The objects of the University include—

- (a) to provide and maintain a teaching and learning environment of excellent quality offering higher education at an international standard;

-
- (b) to undertake scholarship, research and research training of international standing and to apply that scholarship and research to the advancement of knowledge and to the benefit of the well-being of the Victorian, Australian and international communities;
 - (c) to equip graduates of the University to excel in their chosen careers and to contribute to the life of the community;
 - (d) to serve the Victorian, Australian and international communities and the public interest by—
 - (i) enriching cultural and community life;
 - (ii) elevating public awareness of educational, scientific and artistic developments;
 - (iii) promoting critical enquiry, informed intellectual discourse and public debate within the University and in the wider society;
 - (e) to confer degrees and grant diplomas, certificates and other awards.

Division 2—The Council

5 The Council

Nos 3795 s. 5,
4116
s. 3(1)(a)(b),
5044 s. 14(3),
6185 s. 2(1).

S. 5
amended by
Nos 6802
s. 2(a)(b), 7362
s. 6(a)(b), 7426
s. 2(2), 7533
s. 2(4), 7545
s. 3(a), 7758
s. 3(a)–(e),
8638
s. 4(a)–(f),
9619
s. 4(a)–(c),
10238
ss 5(1),
10(b)(c),
105/1994
s. 5(a)(b),
70/1995
s. 13(1)(a)(b),
substituted by
No. 70/1997
s. 25.

S. 5(1)
substituted by
No. 40/2005
s. 31.

S. 5(1A)
inserted by
No. 40/2005
s. 31.

- (1) The Council is the governing body of the University and has the entire direction and superintendence of the University.
- (1A) The primary responsibilities of the Council include—
 - (a) appointing and monitoring the performance of the Vice-Chancellor and Principal as chief executive officer of the University;
 - (b) approving the mission and strategic direction of the University and its annual budget and business plan;
 - (c) overseeing and reviewing the management of the University and its performance;

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- (d) establishing policy and procedural principles for the operation of the University consistent with legal requirements and community expectations;
 - (e) approving and monitoring systems of control and accountability of the University, including those required to maintain a general overview of any entity controlled by the University in accordance with section 50AA of the Corporations Act;
 - (f) overseeing and monitoring the assessment and management of risk across the University, including commercial undertakings;
 - (g) overseeing and monitoring the academic activities of the University;
 - (h) approving any significant commercial activities of the University.
- (2) The Council shall consist of—
- (a) the Chancellor;
 - (b) the person who is the Vice-Chancellor and Principal;
 - (c) the president of the Academic Board;
 - (d) 3 persons elected by and from the staff of the University prescribed by the Statutes;
 - (e) 2 persons elected by and from the students enrolled at the University prescribed by the Statutes;
 - (f) 6 persons appointed by the Governor in Council;
-

S. 5(2)(c)
amended by
No. 40/2005
s. 32(1).

s. 5

S. 5(4)
substituted by
No. 40/2005
s. 32(2).

S. 5(4A)
inserted by
No. 40/2005
s. 32(2).

S. 5(6)
inserted by
No. 40/2005
s. 32(3).

- (g) one person appointed by the Minister;
 - (h) 6 persons appointed by the Council.
- (3) If the Chairperson of the Academic Board is not a professor or an associate professor, one of the members of staff elected under subsection (2)(d) must be elected from the staff who are professors or associate professors.
- (4) The Governor in Council, the Minister and the Council must have regard to appointing members to the Council who have—
- (a) the knowledge, skills and experience required for the effective working of the Council;
 - (b) an appreciation of the values of a University relating to teaching, research, independence and academic freedom;
 - (c) the capacity to recognise the needs of the external community served by the University.
- (4A) Of the persons appointed under subsections (2)(f) and (2)(h)—
- (a) two must be persons with financial expertise with relevant qualifications and experience in financial management at a senior level;
 - (b) one must be a person with commercial expertise at a senior level.
- (5) Not more than 3 members of the Council appointed under subsection (2)(f) and (h) may be persons whose normal place of residence is outside Australia.
- (6) At least 12 members of the Council must be persons who are neither enrolled as a student nor employed as a member of staff of the University.

- (7) A person who is a member of the Parliament of Victoria or of the Commonwealth or of any other State or Territory of Australia must not be elected or appointed to the Council except under subsection (2)(h).

S. 5(7)
inserted by
No. 40/2005
s. 32(3).

6 Terms and conditions of office of council members

S. 6 (Heading)
inserted by
No. 26/2003
s. 18(1).

- (1) Subject to this Act, a member of the Council—

- (a) appointed by the Governor in Council, the Minister or the Council holds office until 31 December in the second year next following the year his or her appointment takes effect;
- (b) elected by members of staff holds office until 31 December in the year next following the year his or her election takes effect;
- (c) elected by enrolled students holds office until 31 December in the year his or her election takes effect.

S. 6
amended by
Nos 7758 s. 4,
8638 s. 5,
9619 ss 5(a),
8(2) (as
amended by
No. 9902
s. 2(1)(Sch.
item 167)),
10238
s. 5(2)(a)(b),
substituted by
No. 70/1997
s. 26.

- (1A) Despite subsection (1)(a)—

- (a) the Governor in Council or the Council may appoint a member until 31 December in the year, or in the year following the year, the member's appointment takes effect to ensure that 2 offices of the members appointed by the Governor in Council or the Council (as the case requires) fall vacant each year;
- (b) a member of the Council appointed in accordance with paragraph (a) holds office for the period specified in his or her instrument of appointment.

S. 6(1A)
inserted by
No. 40/2005
s. 33(1).

- (1B) A member elected or appointed to the Council is eligible to be re-elected or re-appointed to the Council at the end of the member's term of office, but not so as to extend his or her period in office

S. 6(1B)
inserted by
No. 40/2005
s. 33(1).

to exceed 12 years of membership (whether consecutive or not).

S. 6(1C)
inserted by
No. 40/2005
s. 33(1).

(1C) Subsection (1B) does not apply to a member elected or appointed to the Council whose membership of the Council exceeds 12 years if the Council passes a resolution that the person may continue to be a member beyond that period.

S. 6(1D)
inserted by
No. 40/2005
s. 33(1).

(1D) The office of a member of the Council becomes vacant if the member—

(a) is or becomes disqualified from managing corporations under Part 2D.6 of the Corporations Act; or

(b) has failed to attend, without the Council's prior approval, 3 consecutive ordinary meetings of the Council.

(2) A member of the Council appointed by the Governor in Council may, at any time, be removed by the Governor in Council.

(3) A member of the Council appointed by the Minister may, at any time, be removed by the Minister.

(4) If a member of the Council becomes entitled to be a member *ex officio*—

(a) that member is deemed to hold office *ex officio*; and

(b) the vacated office of that member shall be filled in the manner prescribed for the filling of casual vacancies.

(5) Any change in the membership, or the academic rank of the member, of the Council under section 5(2)(c) does not affect the membership of the Council by a person who is elected under section 5(2)(d) during the term of appointment under section 5(2)(d).

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- (6) An elected or appointed member of the council, other than a member who holds a full-time office on the staff of the University, a full-time office under the Crown in any of its capacities or a full-time office in a statutory authority, at the discretion of the council, may be paid the remuneration and fees that are fixed from time to time by the Minister for that member. **S. 6(6) inserted by No. 26/2003 s. 18(2).**
- (7) The following persons are not entitled to be paid or to receive any remuneration, fees, allowances or expenses in respect of their membership of the Council— **S. 6(7) inserted by No. 26/2003 s. 18(2).**
- (a) a member of the Federal Parliament or the Legislative Council or the Legislative Assembly;
 - (b) the Chief Justice and other Justices of the High Court of Australia.
- (8) A member of the council is not to be taken to hold an office of profit under the Crown that would— **S. 6(8) inserted by No. 26/2003 s. 18(2).**
- (a) prevent the member sitting or voting as a member of the Legislative Council or the Legislative Assembly; or
 - (b) make void the member's election to the Legislative Council or the Legislative Assembly; or
 - (c) prevent the member continuing to be a member of the Legislative Council or the Legislative Assembly; or
 - (d) subject the member to any liability or penalty under the **Constitution Act 1975**.

S. 6A
inserted by
No. 9619
s. 5(b),
repealed by
No. 70/1997
s. 26,
new s. 6A
inserted by
No. 40/2005
s. 34.

6A Council's power of removal

- (1) Without limiting section 9 and the powers of the Governor in Council and the Minister under section 6, the Council may remove a member from office in accordance with this section.
- (2) The Council may only remove a member from office if it is of the opinion that the member has failed to comply with the responsibilities of a member of the Council.
- (3) The Council must not remove a member from office unless—
 - (a) another member gives notice at an ordinary meeting of the Council of an intention to move a motion for the member to be removed from the Council and sets out in the notice the grounds for removal; and
 - (b) the member gives that notice no later than at the last ordinary meeting of the Council before the meeting at which the motion to remove the member will be put to the Council; and
 - (c) if the member to be removed is not present at the meeting at which that notice is given, the Council gives the member written notice of the intention and sets out in the notice the grounds for removal; and
 - (d) the Council gives the member to be removed an opportunity, at or before the meeting where the motion for removal is to be considered, to make submissions in writing or personally before the Council of the reasons why the member should not be removed from the Council; and

- (e) by a majority of two-thirds of the members present at the meeting, the Council passes a resolution removing the member from office on the grounds stated in the notice given under this section.

7 Conduct of elections

Elections of members of the Council are to be conducted in accordance with the requirements of this Act and the statutes.

No. 3795 s. 7.
S. 7
amended by
Nos 7362 s. 7,
7758 s. 5, 8638
s. 6, 9619
s. 2(2) (as
amended by
No. 10238
s. 11(1)(a)),
10238 s. 10(c),
70/1997
s. 27(1),
substituted by
No. 40/2005
s. 35.

7A Filling of vacancies on retirement

The appointment or election of a person as a member of the Council to fill a vacancy caused by the retirement of a member at the end of a term of office—

- (a) except in the case of members appointed by the Council, may be made within 6 months before the date of the end of the term of office of the retiring member and takes effect at the end of that term of office; and
- (b) in the case of members appointed by the Council, must be made on or before the last scheduled meeting of the Council before the end of the term of office of the retiring member.

S. 7A
inserted by
No. 7362 s. 8,
substituted by
No. 7758 s. 6,
amended by
No. 9619
s. 2(2) (as
amended by
No. 10238
s. 11(1)(a)),
repealed by
No. 70/1997
s. 27(2),
new s. 7A
inserted by
No. 40/2005
s. 35.

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S. 7B
inserted by
No. 7758 s. 6,
amended by
No. 8638
s. 7(a)(b),
repealed by
No. 70/1997
s. 27(2).

* * * * *

S. 7C
inserted by
No. 7758 s. 6,
repealed by
No. 70/1995
s. 13(2).

* * * * *

S. 7D
inserted by
No. 8638 s. 8,
amended by
No. 10238
s. 10(c),
repealed by
No. 70/1997
s. 27(2).

* * * * *

No. 3795 s. 8.

8 Casual vacancies

In any case where—

- (a) at any election for elective members of the council—
 - (i) no seats or vacancies are filled; or
 - (ii) a number of seats or vacancies less than the whole number which should have been filled is filled; or
- (b) any such election should have been held but is not held—the seats or vacancies which should have been filled and are not filled shall severally be deemed to be casual vacancies; and the members eventually elected to fill the same shall be entitled to continue in office as if elected at such election.

9 Office of member of council how vacated

If a member of the council—

No. 3795 s. 9.
S. 9
amended by
No. 9576
s. 11(1),
substituted by
No. 9619 s. 6.

(a) ceases to hold any qualification required for his becoming or being a member of the council; or

S. 9(a)
amended by
No. 70/1997
s. 27(3).

(b) not being a member ex officio—

(i) by writing under his hand directed to the Chancellor of the University resigns his office;

(ii) is declared by commission or otherwise of unsound mind;

(iii) becomes bankrupt or insolvent;

(iv) is convicted of an indictable offence;

* * * * *

S. 9(b)(v)
repealed by
No. 40/2005
s. 33(2).

(vi) is removed from office—

his office shall become vacant.

10 Filling of casual vacancies

No. 3795 s. 10.

(1) Any casual vacancy in the office of an elected or appointed member of the council shall be filled by the election or appointment of a member to fill the vacancy.

(2) The member to be so elected or appointed shall have the like qualification (if any) as that of the member whose office has become vacant.

s. 11

(3) The election or appointment shall be made by the person or body of persons by whom or which the member whose office has become vacant was elected or appointed.

S. 10(4)
amended by
No. 9619
s. 5(c) (as
amended by
No. 10238
s. 11(1)(b)).

(4) Subject to this Act a member elected or appointed to fill a casual vacancy shall be entitled to hold office during the residue of the term of the member whose office he fills:

Provided that—

S. 10(4)(a)
substituted by
No. 8638 s. 9,
amended by
No. 10238
s. 10(c)(d),
repealed by
No. 70/1997
s. 28(1).

* * * * *

(b) if any casual vacancy occurs within three months before the expiration of the term of office of an elected or appointed member it shall not be obligatory to fill such vacancy for the remainder of such term.

S. 10(5)
inserted by
No. 70/1997
s. 28(2).

(5) Despite section 5(2)(f), the Minister, after consultation with the Chancellor, may appoint a person to a casual vacancy in the office of a member who is required by that provision to be appointed by the Governor in Council.

S. 11
substituted by
No. 7426
s. 2(1).

11 Election of Chancellor and deputy-chancellor

S. 11(1)
amended by
No. 40/2005
s. 36(a).

(1) The members of the council shall from time to time as occasion arises elect or appoint a person whether a member of the Council or not to be the Chancellor of the University for such term and subject to such conditions as are prescribed by the statutes.

* * * * *

S. 11(2)
repealed by
No. 40/2005
s. 36(b).

- (3) The members of the council shall from time to time as occasion arises elect not more than two of its members to be deputy-chancellors of the University for such terms and subject to such conditions as are prescribed by the statutes.
- (4) In the absence of the Chancellor or during any vacancy in the office of Chancellor or during the inability of the Chancellor to act or at any other time with the consent of the Chancellor a deputy-chancellor shall have such of the powers and duties of the Chancellor as the council from time to time determines.

* * * * *

S. 11(5)
repealed by
No. 40/2005
s. 36(b).

12 Chairman

At every meeting of the council the Chancellor or in his absence one of the deputy-chancellors elected by the meeting shall preside as chairman; and in the absence of the Chancellor and the deputy-chancellors the members of the council present shall elect a chairman.

Nos 3795 s. 2,
4116 s. 3(1)(d).

S. 12
amended by
No. 7426
s. 2(3).

13 Council member's responsibilities

- (1) A member of the council must act in the interests of the University as a whole and is responsible to the council for furthering the purposes of the council and the objects of the University rather than any constituent person or body who elected or appointed the member.

S. 13
substituted by
No. 26/2003
s. 19.

S. 13(1)
amended by
No. 40/2005
s. 37(1)(a).

s. 13A

S. 13(2)
amended by
No. 40/2005
s. 37(1)(b).

(2) A member of the council must not make improper use of his or her position on the council including the improper use of any information acquired in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or any other person.

S. 13(3)
inserted by
No. 40/2005
s. 37(2).

(3) A member of the council, in carrying out his or her functions and duties, must—

- (a) act in good faith, honestly and for proper purposes consistent with the objects and interests of the University;
- (b) exercise appropriate care and diligence;
- (c) take reasonable steps to avoid all conflicts of interest unless they are disclosed in accordance with section 13A.

S. 13A
(Heading)
amended by
No. 40/2005
s. 37(3).

13A Declaration of interests of council members

S. 13A
inserted by
No. 26/2003
s. 19.

S. 13A(1)
amended by
No. 40/2005
s. 37(4).

(1) A member of the council who has an interest in a matter being considered or about to be considered by the council must, as soon as practicable, after the relevant facts have come to his or her knowledge, declare the nature of the interest at a meeting of the council or in writing addressed to the Chancellor.

(2) If the Chancellor receives a written declaration under subsection (1), the Chancellor must report it or cause it to be reported, at the next meeting of the council.

- (3) The person presiding at a meeting at which a declaration is made under subsection (1) or reported under subsection (2) must cause a record of the declaration to be made in the minutes of the meeting.
- (4) After a declaration is made under subsection (1) by a member of the council—
 - (a) unless the council otherwise directs, the member must not be present during any deliberation with respect to that matter; and
 - (b) the member is not entitled to vote on the matter; and
 - (c) if the member does vote on the matter, the vote must be disallowed .

14 Questions how decided

No. 3795 s. 14.

- (1) Subject to any statute made under subsection (4), all questions which come before any meeting of the council shall be decided by the majority of the members present.
- (2) The chairman at any such meeting shall have a vote and in case of an equality of votes a casting vote.
- (3) No question shall be decided at any meeting of the council unless at least eight members thereof are present.
- (4) The council may by statute provide that certain resolutions, or resolutions of certain classes, shall have effect only if passed by a specified majority of members or of members present and voting.
- (5) Subject to this Act and the statutes and regulations, the council may regulate its own proceedings.

S. 14(1)
amended by
No. 9619
s. 7(a).

S. 14(4)
inserted by
No. 9619
s. 7(b).

S. 14(5)
inserted by
No. 9619
s. 7(b).

s. 14A

S. 14A
inserted by
No. 70/1995
s. 14.

14A Resolutions without meetings of the council

- (1) If a majority of the members for the time being of the council sign a document circulated by, or on behalf of, the Chancellor containing a statement that those members are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the council held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last member to sign signs the document.
- (2) If a resolution is, under subsection (1), taken to have been passed at a meeting of the council, each member must be advised as soon as practicable and given a copy of the terms of the resolution.
- (3) For the purposes of subsection (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more members, shall be taken to constitute one document.
- (4) In this section, *member*, in relation to a resolution, does not include a member who, by reason of section 13, is not permitted to vote on the resolution.

S. 14B
inserted by
No. 70/1995
s. 14.

14B Approved methods of communication for council meetings

- (1) If not less than two thirds of the members of the council for the time being holding office so agree, a meeting of the council may be held by means of a method of communication, or by means of a combination of methods of communication, approved by the Chancellor for the purposes of that meeting.

- (2) For the purposes of this Division, a member of the council who participates in a meeting held as permitted by subsection (1) is present at the meeting even if he or she is not physically present at the same place as another member participating in the meeting.
- (3) In this section, *meeting* includes a part of a meeting.

15 Council to appoint staff and to have entire management of the University

Nos 3795
s. 15, 4116
s. 2

- (1) Subject to this Act and the statutes and regulations, the Council may on any terms and conditions that it determines, employ persons in teaching or other positions in the University.
- (1AA) The council may terminate the employment of any member of staff employed by it.
- (1A) Without limiting the generality of section 5(1), the council shall have, and shall be deemed always to have had, power to establish and conduct the repertory company known, at the commencement of this subsection, as The Melbourne Theatre Company and previously known as the Union Theatre Repertory Company.
- (2) (a) Without limiting the generality of subsection (1) of this section the council may appoint and dismiss an officer who shall be styled the vice-chancellor and principal;
- (b) Subject to this Act, the vice-chancellor and principal shall be the chief executive officer of the University and shall as such have such powers and duties as are conferred or imposed upon him by statutes or regulations of the University;

S. 15(1)
substituted by
No. 40/2005
s. 38(1).

S. 15(1AA)
inserted by
No. 40/2005
s. 38(1).

S. 15(1A)
inserted by
No. 9619
s. 8(1)(a),
amended by
No. 40/2005
s. 38(2).

S. 15(2)(a)
amended by
No. 7545
s. 3(b)(i).

S. 15(2)(b)
amended by
No. 7545
s. 3(b)(i),
substituted by
No. 9619
s. 8(1)(b).

Melbourne University Act 1958
No. 6405 of 1958

Part I—Constitution and Government of the University

s. 15

S. 15(2)(ba)
inserted by
No. 9619
s. 8(1)(b).

(ba) Unless otherwise expressly provided by the statutes or regulations, the vice-chancellor and principal may delegate any of his powers and duties to any person or persons;

S. 15(2)(bb)
inserted by
No. 9619
s. 8(1)(b).

(bb) Every delegation under paragraph (ba) may be revoked by the vice-chancellor and principal and shall not prevent the exercise or performance by the vice-chancellor and principal of any of his powers and duties;

S. 15(2)(bc)
inserted by
No. 9619
s. 8(1)(b).

(bc) If a person is appointed pursuant to the statutes of the University as an acting vice-chancellor and principal during the absence or ill-health of the vice-chancellor and principal or otherwise, the person so appointed shall, during the period of his appointment, have all the powers and duties of the vice-chancellor and principal and shall be a member of the council *ex officio* in place of the vice-chancellor and principal;

S. 15(2)(bd)
inserted by
No. 9619
s. 8(1)(b),
repealed by
No. 70/1997
s. 28(3).

* * * * *

S. 15(2)(c)
inserted by
No. 7545
s. 3(b)(ii),
amended by
Nos 8638
s. 10(a),
105/1994
s. 6(a).

(c) Without limiting the generality of subsection (1) of this section the council may appoint and dismiss one or more officers each of whom shall be styled a deputy vice-chancellor;

S. 15(2)(d)
inserted by
No. 7545
s. 3(b)(ii),
amended by
Nos 8638
s. 10(b),
105/1994
s. 6(b).

(d) Subject to this Act the deputy vice-chancellors shall as such have such powers and duties as are conferred or imposed on them by statutes or regulations of the University.

- (3) (a) Without limiting the generality of subsection (1), the council may annually appoint one or more pro-vice-chancellors, one of whom shall be the person who, at the date of the appointment, is president of the academic board;
- (b) Subject to this Act, a pro-vice-chancellor shall as such have such powers and duties as are conferred or imposed upon him by statutes or regulations of the University.

S. 15(3)(a) inserted by No. 6802 s. 2(c), amended by No. 9619 s. 8(3) (as amended by Nos 9902 s. 2(1)(Sch. item 168)), 40/2005 ss 38(3)(a), 39(a).

S. 15(3)(b) inserted by No. 6802 s. 2(c), amended by No. 40/2005 s. 38(3)(b).

16 Committees and delegation of powers

S. 16 substituted by No. 7545 s. 4.

- (1) The council may by resolution constitute and appoint such committees as it thinks fit (at least one-third of the members of any such committee being members of the council) and may by resolution delegate all or any of its powers authorities duties and functions (other than this power of delegation and the power to make statutes and regulations) to any such committee or to any member of the council or to any officer of the University.
- (2) Every delegation under this section shall be revocable by resolution of the council and no such delegation shall prevent the exercise or discharge by the council of any of its powers authorities duties or functions.

S. 16(1) amended by No. 9619 s. 9.

s. 16A

S. 16A
inserted by
No. 9619 s. 10.

16A Indemnity of council members and others

The University shall indemnify and keep indemnified each member of the council or of a committee constituted by resolution of the council or by or under a statute or regulation against all actions suits claims and demands whatsoever (whether arising during or after the term of office of that member) in respect of any act or thing done or omitted to be done by that member in good faith in the exercise or purported exercise of any power or duty conferred or imposed upon the council or committee or upon any member or members thereof by or under this Act.

No. 3795 s. 17.
S. 17
amended by
No. 8638
s. 11(a)(b),
substituted by
No. 9123
s. 3(1).

17 Power of council to make statutes and regulations

S. 17(1)
substituted by
No. 9619 s. 11.

- (1) The council shall, subject to this Act, have and be deemed always to have had full power to make and alter any statutes and regulations with respect to any matter whatsoever pertaining to the University and, in particular and without prejudice to the generality of the foregoing, with respect to—
- (a) the organization, management and good government of the University;
 - (b) employment of staff;
 - (c) retired staff members and their dependants;
 - (d) discipline;
 - (e) academic dress;
 - (f) the common seal;
 - (g) copyrights and patents;

-
- (h) public examinations;
- (i) students;
- (j) courses of study;
- (k) credit in courses of the University for work done elsewhere;
- (l) academic awards;
- (m) fees charged by the University;
- (n) endowments;
- (o) organizations, amenities and services which are not of an academic nature;
- (p) property, buildings and traffic;
- (q) research, development, consultancy and other services undertaken by the University for commercial organizations, public bodies or individuals; **S. 17(1)(q) substituted by No. 10238 s. 6.**
- (r) recognition of institutions or bodies at which— **S. 17(1)(r) inserted by No. 10238 s. 6.**
- (i) work is undertaken by undergraduate students or postgraduate students of the University for the purpose of satisfaction of degree requirements of the University; or
- (ii) research is or may be undertaken by teaching or research staff of the University; or **S. 17(1)(r)(ii) amended by No. 70/1997 s. 29.**
- (iii) any other work is undertaken that assists the University to attain any of its objects. **S. 17(1)(r)(iii) inserted by No. 70/1997 s. 29.**
- (s) teaching, research and continuing education projects within and outside Victoria undertaken by the University jointly with commercial organizations, public bodies or individuals; **S. 17(1)(s) inserted by No. 10238 s. 6.**
-

s. 18

S. 17(1)(sa)
inserted by
No. 40/2005
s. 40(1).

(sa) elections conducted by or on behalf of the Council including voting by post, electronic voting, proportional representation and preferential voting;

S. 17(1)(t)
inserted by
No. 10238 s. 6.

- (t) any other matter in relation to which—
- (i) the council may by virtue of another provision of this Act make statutes or regulations; or
 - (ii) it is necessary or expedient to make statutes or regulations for the good government of the University or for the management of its affairs.

S. 17(2)
repealed by
No. 9619 s. 11,
new s. 17(2)
inserted by
No. 105/1994
s. 7(1).

- (2) Any Statute made by the Council may provide for¹—
- (a) the making of regulations, either by the Council or, if the Statutes so authorise, by the Vice-Chancellor for or with respect to prescribing or providing for any matter or thing for the purposes of the Statute;
 - (b) the manner of promulgation of any such regulation;
 - (c) the revocation or amendment of any such regulation.

S. 17(3)–(5)
repealed by
No. 9711 s. 3.

* * * * *

Nos 3795
s. 18, 5579
s. 2.

18 Affiliation of colleges and management of student accommodation

S. 18(1)
amended by
No. 9619 s. 12.

- (1) The council shall subject to this Act have full power to make and alter statutes for the affiliation to or connexion with the University of any college or educational establishment to which the governing body of such college or establishment consents, and for the licensing and supervision of premises intended for the reception of students

and the revocation of such licences: Provided always that no such statutes shall affect the religious observances or regulations enforced in such colleges educational establishments or premises.

- (2) Without prejudice to the provisions of the last preceding subsection the council shall subject to this Act have full power to make and alter statutes for and with respect to—
- (a) the establishment by the council of hostels and halls of residence for students;
 - (b) the management control and closing of any such hostels and halls;
 - (c) the arrangement of accommodation for students; and
 - (d) exercising, by agreement with the owner or governing body of any hostel or hall not established by the council, powers of control and management in relation to any such hostel or hall.
- (3) The Council may make or alter Statutes for the affiliation with the University of any educational, commercial, cultural, sporting or other institution, organisation or body if—
- (a) the affiliation would assist in attaining any of the objects of the University; and
 - (b) the governing body of the institution, organisation or body has consented to the affiliation.

S. 18(3)
inserted by
No. 105/1994
s. 8,
amended by
No. 70/1995
s. 15(1).

s. 19

No. 3795 s. 19.

S. 19
amended by
Nos 8638
s. 12, 105/1994
s. 9(1).

19 Power of council to grant degrees

S. 19(1)
amended by
No. 9/1997
s. 13.

- (1) Subject to the statutes and regulations of the University the council shall have power and shall be deemed always to have had power to grant in any discipline except divinity any degree diploma certificate, licence or other award:

S. 19(1)
Proviso
substituted by
No. 6502 s. 2.

Provided that statutes or regulations may be made—

- (a) for the admission without examination to any such degree of any person who has graduated at a University; and
- (b) for the admission honoris causa to any such degree of any person whether or not he has graduated at a University.

S. 19(2)
inserted by
No. 105/1994
s. 9(2),
amended by
Nos 70/1995
s. 15(2),
9/1997 s. 13.

- (2) If the Statutes so provide, the Council may, in the circumstances and manner prescribed in the Statutes, revoke any degree, diploma, certificate, licence or other award conferred or granted by the University, whether before or after the commencement of section 15(2) of the **University Acts (Further Amendment) Act 1995**.

No. 3795 s. 20.

20 Validation of proceedings notwithstanding vacancy or disqualification

No proceeding of the council or of any committee thereof shall be invalidated or be illegal in consequence only of there being any vacancy in the number of the members of the council at the time of such proceeding; and all proceedings of the council or of a committee thereof or of any other person acting as a member of the council shall notwithstanding it may afterwards be discovered that there was some defect in the

election or appointment of the members of the council or persons acting as aforesaid or that they or any of them were incapable of being members of the council be as valid as if every such person had been duly elected or appointed and was capable of being a member of the council.

Division 3—Convocation and its committee

Pt 1 Div. 3
(Heading)
substituted by
Nos 8638
s. 13(1)(a),
10238 s. 7(1).

20A Convocation

S. 20A
inserted by
No. 10238
s. 7(1).

Convocation consists of all graduates.

21 Powers of convocation

S. 21
substituted by
No. 8638
s. 13(1)(b),
amended by
No. 10238
s. 10(b).

Convocation—

- (a) shall every two years elect, in accordance with standing orders of convocation, one of its members to be president;
- (b) shall hold at least one ordinary meeting in every year;
- (c) may hold special meetings as provided for by standing orders of convocation;
- (d) may submit for consideration of the council such suggestions as it thinks fit with respect to the affairs and concerns of the University; and the council shall take all such suggestions into consideration and report to convocation its determinations thereon; and

S. 21(a)
substituted by
No. 10238
s. 7(2)(a).

S. 21(c)
amended by
No. 10238
s. 10(c).

S. 21(d)
amended by
No. 10238
ss 7(2)(b),
10(c).

s. 22

S. 21(e)
amended by
No. 10238
s. 7(2)(c).

(e) may make standing orders providing for the number of ordinary meetings to be held in every year, the time and place of and the manner of convening ordinary and special meetings and for the regulation of its proceedings and of the proceedings of the committee of convocation and for the election of the president and deputy president and for any other matters with respect to which it is empowered by the statutes of the University to make standing orders so far as such standing orders are not repugnant to any Act or law in force in Victoria or to any statute or regulation of the University.

No. 3795 s. 22.
S. 22
substituted by
No. 8638
s. 13(1)(c),
amended by
No. 10238
s. 10(b)(e).

22 Chairman

At every meeting of convocation the president shall preside as chairman and in the absence of the president the members of convocation present shall elect a chairman.

No. 3795 s. 23.

23 Committee to be constituted and election of members

S. 23(1)
amended by
Nos 8638
s. 13(1)(d)(i),
10238
s. 8(1)(a).

(1) There shall be a committee of convocation (hereinafter referred to as *the committee*) consisting of the president of convocation ex officio and not less than 40 other persons who are members of convocation:

S. 23(1)
Proviso
amended by
No. 10238
s. 10(f).

Provided that no member of the council and that no member of the academic staff or other officer of the University whose sole or principal employment is in connexion with his duties as such shall be a member of the committee: Provided further that if any member of the committee is elected or appointed to be a member of the council or is appointed to be a member of

the academic staff or other such officer as aforesaid his office as a member of the committee shall become vacant.

(2) Subject to this Act—

(a) the elective members of the committee shall be elected by convocation; and

S. 23(2)(a) amended by Nos 8638 s. 13(1)(d)(ii) (iii), 10238 s. 10(b)(f).

(b) the elections shall be conducted in accordance with statutes or regulations of the University.

* * * * *

S. 23(3) repealed by No. 40/2005 s. 40(2).

(4) The council may from time to time in accordance with the statutes of the University determine—

S. 23(4) amended by No. 8638 s. 13(1)(d)(ii), substituted by No. 9619 s. 13(a).

(a) the number of members of the committee to be elected;

S. 23(4)(a) amended by No. 10238 s. 10(f).

(b) how the several classes of graduates are to be represented thereon, whether separately or by grouping together two or more classes; and

(c) the number of members to be elected as representing each class or group of classes of graduates.

Melbourne University Act 1958
No. 6405 of 1958

Part I—Constitution and Government of the University

s. 23

S. 23(4A)
inserted by
No. 9619
s. 13(a),
amended by
No. 10238
s. 10(f).

(4A) Any determination under subsection (4) as to the number of members of the committee to be elected as representing each class or group of classes of graduates shall be such as to ensure, so far as is practicable, that the members of each such class or group of classes whose names appear on the postal roll kept pursuant to the statutes of the University are proportionately represented on the committee.

(5) Where in consequence of the making of any statute as aforesaid any previously existing statute or regulation of the University is revoked or altered and in consequence thereof any change is made in the number of members to be elected or in the classes or groups of classes of graduates to be represented or in the representation of any class or group of classes of graduates provision may be made in the new statute for any matters or things necessary or convenient to be provided for carrying the new statute into effect.

S. 23(6)
amended by
Nos 8638
s. 13(1)(d)(ii),
10238 s. 10(f).

(6) Any new statute under this section shall take effect immediately before the election of members of the committee to be held next after the making of the statute.

(7) In all cases the number of representatives of each class or group of classes of graduates to be elected as provided in this section shall be an even number.

S. 23(8)
amended by
Nos 8638
s. 13(1)(d)(ii)
(iii), 10238
s. 10(b)(f),
repealed by
No. 70/1997
s. 30(1).

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Melbourne University Act 1958
No. 6405 of 1958
Part I—Constitution and Government of the University

s. 23

* * * * *

S. 23(9)
amended by
Nos 8638
s. 13(1)(d)(ii),
10238 s. 10(f),
105/1994
s. 17(b),
repealed by
No. 70/1997
s. 30(1).

- (10) The provisions of this Act relating to members of the council so far as regards eligibility for re-election, the conduct of elections, and the occurrence of and the filling of vacancies shall mutatis mutandis extend and apply to elected members of the committee:

S. 23(10)
amended by
Nos 8638
s. 13(1)(d)(ii)
(iii), 10238
s. 10(b)(f),
70/1997
s. 30(2).

Provided that—

- (a) at elections of members of the committee every member of convocation shall be qualified to vote by reason of being a graduate of the class or group of classes of graduates to be represented and shall be entitled to one vote in respect of each degree conferred upon such graduate or to which such graduate has been admitted by the University; but no graduate shall be entitled to more than one vote in respect of any degrees in any one faculty or school;
- (b) if any elected member of the committee by writing under his hand directed to the president resigns his office or if he is absent from all meetings thereof held during a period of six consecutive months without the leave of the committee previously granted his office shall become vacant;

S. 23(10)(a)
amended by
No. 10238
s. 10(b)(f).

S. 23(10)(b)
amended by
Nos 8638
s. 13(1)(d)(iv),
9619 s. 13(b)
(as amended
by No. 10238
s. 11(1)(c)),
10238 s. 10(f).

S. 23(10)(c)
amended by
Nos 8638
s. 13(1)(d)(iv),
9619 s. 13(c),
substituted by
No. 10238
s. 8(1)(b).

(c) in the case of—

- (i) any casual vacancy however occurring in the office of an elected member of the committee, the vacancy shall be filled by the election by a majority of the remaining members of the committee of a member of the committee representing the same class or group of classes of graduates; or
- (ii) any casual vacancy in the office of president of convocation, the vacancy shall be filled by the election by a majority of the members of the committee of a member of the committee—

and the person elected in each case shall be entitled to hold office during the residue of the term of office of the person replaced; and

S. 23(10)(d)
amended by
No. 10238
s. 8(1)(c).

- (d) the present elective members of the graduate committee of the graduates of the University in office at the commencement of this Act shall for the respective terms for which they were elected be deemed to be members of the committee as if elected under this Act.

No. 3795 s. 24.

24 Meetings of committee

S. 24(1)
amended by
Nos 8638
s. 13(1)(e)(i)
(as amended
by No. 9019
s. 2(1)(Sch.
item 268)),
10238
s. 10(f)(g).

- (1) Subject to any standing orders of convocation, the committee—
 - (a) may meet at such times and places as it thinks fit; and may adjourn any meeting; and
 - (b) may regulate its own proceedings.

S. 24(2)
amended by
Nos 8638
s. 13(1)(e)(ii),
10238 s. 10(f).

- (2) So long as there is a quorum the committee may act notwithstanding any vacancy in its numbers.

(2A) The committee shall whenever a vacancy occurs elect, in accordance with the standing orders of convocation, one of the members of the committee to be deputy president of the committee for such period as the committee determines.

S. 24(2A)
inserted by
No. 10238
s. 8(2)(a).

(3) The president shall be ex officio chairman of the committee and the president or in his absence the deputy president or, in the absence of the president and the deputy president a member of the committee elected as chairman by the members present shall preside at all meetings of the committee.

S. 24(3)
substituted by
No. 8638
s. 13(1)(e)(iii),
amended by
No. 10238
ss 8(2)(b),
10(f).

24A Resolutions without meetings of the committee

S. 24A
inserted by
No. 70/1995
s. 16.

- (1) If a majority of the members for the time being of the committee sign a document circulated by, or on behalf of, the president of convocation containing a statement that those members are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the committee held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last member to sign signs the document.
- (2) If a resolution is, under subsection (1), taken to have been passed at a meeting of the committee, each member must be advised as soon as practicable and given a copy of the terms of the resolution.
- (3) For the purposes of subsection (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more members, shall be taken to constitute one document.

s. 24B

S. 24B
inserted by
No. 70/1995
s. 16.

24B Approved methods of communication for committee meetings

- (1) If not less than two thirds of the members of the committee for the time being holding office so agree, a meeting of the committee may be held by means of a method of communication, or by means of a combination of methods of communication, approved by the president of convocation for the purposes of that meeting.
- (2) For the purposes of this Division, a member of the committee who participates in a meeting held as permitted by subsection (1) is present at the meeting even if he or she is not physically present at the same place as another member participating in the meeting.
- (3) In this section, *meeting* includes a part of a meeting.

No. 3795 s. 25.
S. 25
amended by
Nos 8638
s. 13(1)(f)(i),
10238 s. 10(f).

25 Powers and duties of committee

The committee—

S. 25(a)
repealed by
No. 70/1997
s. 30(3).

* * * * *

S. 25(b)
amended by
Nos 8638
s. 13(1)(f)(i),
10238 s. 10(f).

- (b) may submit for the consideration of the council such suggestions as it thinks fit with respect to the affairs and concerns of the University; and the council shall take all such suggestions into consideration and report to the committee its determinations thereon;
- (c) shall report to the council on any matters referred to it by the council for report;

(d) may at any time and shall once at least in every year report to convocation; and

S. 25(d)
amended by
Nos 8638
s. 13(1)(f)(ii),
10238 s. 10(b).

(e) shall have such other powers and duties as are conferred or imposed on it by or under this Act or any other Act or any statutes or regulations of the University.

26 Questions how decided

No. 3795 s. 26.

(1) All questions which come before any meeting of convocation or of the committee of convocation shall be decided by the majority of members present.

S. 26(1)
amended by
Nos 8638
s. 13(1)(g)(i)
(as amended
by No. 9019
s. 2(1)(Sch.
item 269)),
9619 s. 14,
10238
s. 10(b)(d).

(2) The chairman at any such meeting shall have a vote and in case of an equality of votes a casting vote.

(3) No question shall be decided at any meeting of convocation unless at least twenty members thereof are present or at any meeting of the committee of convocation unless at least ten members thereof are present.

S. 26(3)
amended by
Nos 8638
s. 13(1)(g)(ii),
9619 s. 14,
10238
s. 10(b)(d).

27 Validation of proceedings notwithstanding vacancy or disqualification

No. 3795 s. 27.

The provisions of section twenty of this Act shall extend and apply to convocation and the committee and persons acting as members thereof respectively as if for the word "council" in such section there were substituted the word "convocation" or the word "committee" (as the case may require).

S. 27
amended by
Nos 8638
s. 13(1)(h)(i)(ii),
9619 s. 15,
10238
s. 10(b)(f)(h),
105/1994
s. 17(c).

Pt 1 Div. 4
(Heading)
substituted by
No. 9123
s. 2(b).

Division 4—The Academic Board

28 Constitution of the academic board and its powers and duties

S. 28(1)
amended by
Nos 7545
s. 3(c), 8181
s. 2(1)(Sch.
item 188),
substituted by
No. 8638 s. 14,
amended by
Nos 9123
s. 2(c), 9427
s. 6(1)(Sch. 5
item 108).

- (1) There shall be an academic board as constituted by the statutes and regulations of the University.

Nos 3795
s. 28, 4116
s. 3(1)(e).

- (2) The academic board—

S. 28(2)
amended by
No. 9123
s. 2(d).

S. 28(2)(a)
amended by
No. 70/1997
s. 31.

- (a) may make to the Council any recommendation about the academic affairs of the University; and in particular may make to the council any recommendations as to studies and discipline in the University;
- (b) shall report to the council on all matters submitted to it by the council for report;
- (c) shall have such other powers and duties as are conferred or imposed upon it by or under this Act or any other Act or any statutes or regulations of the University; and
- (d) subject to any statutes or regulations of the University may regulate its own proceedings.

28A Resolutions without meetings of the academic board

S. 28A
inserted by
No. 70/1995
s. 17.

- (1) If a majority of the members for the time being of the academic board sign a document circulated by, or on behalf of, the president of the board containing a statement that those members are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the academic board held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last member to sign signs the document.
- (2) If a resolution is, under subsection (1), taken to have been passed at a meeting of the academic board, each member must be advised as soon as practicable and given a copy of the terms of the resolution.
- (3) For the purposes of subsection (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more members, shall be taken to constitute one document.

S. 28A(1)
amended by
No. 40/2005
s. 39(b).

28B Approved methods of communication for academic board meetings

S. 28B
inserted by
No. 70/1995
s. 17.

- (1) If not less than two thirds of the members of the academic board for the time being holding office so agree, a meeting of the academic board may be held by means of a method of communication, or by means of a combination of methods of communication, approved by the chairperson of the board for the purposes of that meeting.

- (2) For the purposes of this Division, a member of the academic board who participates in a meeting held as permitted by subsection (1) is present at the meeting even if he or she is not physically present at the same place as another member participating in the meeting.
- (3) In this section, *meeting* includes a part of a meeting.

Division 5—The faculties

No. 3795 s. 29.

29 The faculties and the appointment or election of deans

- (1) Subject to the express provisions of any Act—

S. 29(1)(a)
amended by
No. 7141 s. 2.

- (a) there shall be such faculties as are from time to time established by the statutes with such constitutions and such powers and duties as are conferred or imposed upon them by or under this Act or any other Act or any statutes or regulations of the University; and

S. 29(1)(b)
inserted by
No. 6802 s. 3.

- (b) a dean of each faculty shall pursuant to and in accordance with statutes of the University from time to time as occasion arises be—
 - (i) appointed by the council; or
 - (ii) elected by the members of the faculty from their own number; and

S. 29(1)(c)
inserted by
No. 6802 s. 3.

- (c) each faculty may subject to the statutes and regulations of the University regulate its own proceedings.

- (2) The deans of the several faculties shall as such have such powers and duties as are conferred or imposed upon them by statutes or regulations of the University.

**29A Establishment of the Faculty of the Victorian
College of the Arts**

S. 29A
inserted by
No. 62/2006
s. 12.

- (1) Despite section 29(1)(a), there is established a faculty to be known as the "Faculty of the Victorian College of the Arts".
- (2) The faculty—
 - (a) shall have the powers and duties that are respectively conferred or imposed on it by the statutes of the University; and
 - (b) shall consist of those persons who are declared by the statutes of the University to be members of the faculty.
- (3) The first statute made in respect of all the matters referred to in subsection (2) must be made not later than 1 July 2007.
- (4) Subject to this section, the faculty is to be taken to be a faculty established in accordance with section 29.
- (5) The objects of the faculty are—
 - (a) to foster the development and improvement of, and to provide for education in, the creative, performing and other arts, and for general education for people undertaking courses in those arts;
 - (b) to advance learning, knowledge, appreciation and competence in activities primarily or substantially directed to the creation, design, composition, interpretation, display, publication, performance or management of works of an aesthetic nature and of their conservation and elucidation;

s. 30

- (c) to organise, conduct and participate in public performances, exhibitions, conferences, lectures, demonstrations, experiments, training and other activities relating to the arts;
- (d) to promote critical enquiry within the College and in the general community;
- (e) to consult and collaborate in the interests of the community with other arts organisations and people.

Division 6—Statutes and regulations

30 Statutes and regulations to be submitted to faculty and academic board

Nos 3795
s. 30, 4116
s. 3(1)(f).

S. 30(1)
amended by
Nos 8638
s. 15(a)(i)(ii),
10238
s. 10(d)(f),
repealed by
No. 70/1997
s. 32.

* * * * *

S. 30(1A)
inserted by
No. 70/1995
s. 18,
repealed by
No. 70/1997
s. 32.

* * * * *

S. 30(1B)
inserted by
No. 70/1995
s. 18,
repealed by
No. 70/1997
s. 32.

* * * * *

- (2) Before any new statute or regulation or any alteration or repeal of any existing statute or regulation is made the council (where the proposal concerns any degree diploma certificate or licence or any course of study) shall submit the proposed statute regulation alteration or repeal to the appropriate faculty or faculties and to the academic board for consideration and report:

S. 30(2)
amended by
No. 9123
s. 2(e).

Provided that—

- (a) if any such report is not made to the council within one month (or such further period as the council in any case determines) after the submission of the proposal to the appropriate faculty or faculties or to the academic board (as the case may be) the new statute or regulation or the alteration or repeal may be made without such report having been received;
- (b) with respect to any matter declared by the council to be urgent any new statute or regulation or any alteration or repeal may (without the submission thereof to the said board or to any faculty) be made to come into force immediately and to have effect for any period specified therein but not exceeding three months; and
- (c) where a proposed statute regulation alteration or repeal adopts (without amendment or with an amendment which is merely verbal or in the opinion of the council not substantial) a proposal recommended to the council by the appropriate faculty or faculties and by the academic board it shall not be necessary to submit as aforesaid such proposed statute regulation alteration or repeal to any such body from which the recommendation was received.

S. 30(2)(a)
amended by
No. 9123
s. 2(f).

S. 30(2)(c)
amended by
No. 9123
s. 2(f).

s. 31

S. 30(3)
amended by
Nos 8638
s. 15(b)(i)–(iii),
10238
s. 10(i)(i)(ii),
repealed by
No. 70/1997
s. 32.

S. 30(4)
amended by
Nos 9123
s. 2(g),
40/2005
s. 39(a).

No. 3795 s. 31.
S. 31
substituted by
No. 105/1994
s. 10.

S. 31(1)(c)
amended by
No. 70/1997
s. 33.

S. 31(2)
amended by
No. 70/1997
s. 33.

* * * * *

(4) For the purposes of this section the date of the submission of any proposal to any faculty or to the academic board shall be the date on which the same is received by the dean of the faculty or the president of the academic board (as the case may be).

31 Statutes and regulations

- (1) A Statute made by the Council under this Act—
- (a) must be in writing; and
 - (b) must have the common seal of the University affixed; and
 - (c) must be submitted to the Minister for approval.
- (2) A Statute comes into operation on the day on which the Minister approves it or, if a later day is specified in the Statute, from that later day.
- (3) The production of a verified copy of a Statute under the common seal of the University is sufficient evidence of its making and authenticity in all courts and before all persons acting judicially.
- (4) A regulation made under a Statute comes into operation on the day on which it is promulgated in accordance with the Statute under which it is made or, if a later day is specified in the regulation, from that later day.

- (5) The production of a verified copy of a regulation under the common seal of the University is sufficient evidence of its making and authenticity in all courts and before all persons acting judicially.
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s. 32

Part 2
(Heading)
substituted by
No. 105/1994
s. 11.

PART II—FINANCE AND PROPERTY

Pt 2 Div. 1
(Heading)
substituted by
No. 105/1994
s. 12.

Division 1—Borrowing and investment powers and investigations

Nos 3795
s. 32, 4116
s. 3(1)(g).
S. 32
amended by
No. 10238
s. 10(j),
repealed by
No. 31/1994
s. 3(Sch. 1
item 41),
new s. 32
inserted by
No. 105/1994
s. 13.

32 Borrowing powers etc.

S. 32(1)
amended by
No. 70/1997
s. 34.

(1) Subject to this Act, the Council may—

S. 32(1)(a)
amended by
No. 11/2001
s. 3(Sch.
item 49.1).

- (a) borrow money at interest by way of mortgage, overdraft with an authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth or otherwise; or
- (b) without limiting paragraph (a), obtain financial accommodation within the meaning of section 3 of the **Borrowing and Investment Powers Act 1987**—

for—

- (c) the purpose of carrying out or performing any of its powers, authorities, duties and functions; and
- (d) the repayment or partial repayment of any sum previously borrowed or financial accommodation previously obtained—

within such limits and upon such conditions as to security and otherwise as the Treasurer, from time to time, approves after consultation with the Minister.

- (2) The Council may, with the approval of the Minister and the Treasurer, enter into and perform financial arrangements within the meaning of the **Borrowing and Investment Powers Act 1987** within the limits and upon the conditions that the Minister and the Treasurer may, from time to time, determine.

32A Investments

- (1) Subject to subsection (2), the investment of moneys of the University not at the time required for expenditure shall be authorized from time to time by the Council, and the Council may authorize the investment of such funds in any form of investment whatsoever.
- (2) Any endowment funds held by the University in accordance with specific trusts as to the payment of the income thereof in perpetuity may be invested for the time being in any manner in which moneys may be invested under the **Trustee Act 1958** or, unless the investment is expressly prohibited by the instrument creating the trust, in any of the following investments—
 - (a) leasehold property;

S. 32A
inserted by
No. 8638
s. 16(a),
substituted by
No. 9619 s. 16.

S. 32A(2)
amended by
No. 104/1995
s. 6(Sch. 1
item 17).

s. 33

S. 32A(2)(b)
substituted by
No. 9761 s. 3.

(b) securities of a body corporate formed or incorporated in a State or Territory of Australia or of any registered foreign company, recognized company or recognized foreign company within the meaning of the **Companies (Victoria) Code**.

(3) In subsection (2) *securities* includes—

- (a) stocks and shares; and
- (b) any debenture, debenture stock, bond, note or other security.

Nos 3795
s. 33, 5579
s. 3(a)(b).
S. 33
amended by
Nos 7068
s. 2(a)(i)–(iii)
(b)(c), 7545
s. 5, 7758 s. 7,
8638 s. 16(b),
substituted by
No. 9619 s. 17
(as amended
by No. 9902
s. 2(1)(Sch.
item 169)).

33 Investigations at request of a Minister of the Crown

Where any responsible Minister of the Crown desires that an investigation be made by members of the academic staff of the University, the investigation shall be made upon such terms and conditions as (after consultation between the Council and the chairman or other senior member of the academic staff of the department or school concerned) are agreed between the Minister and the Council; and a report of the result of the investigation shall be furnished to the Minister.

Ss 34, 35
repealed by
No. 8638
s. 16(c).

* * * * *

Division 2—University Students Loan Fund

Nos 3795
s. 36, 3942
s. 2.

36 University Students Loan Fund to be established

- (1) There shall be established and kept by the council a fund to be called the University Students Loan Fund (hereinafter referred to as *the said fund*).
- (2) In addition to any money already credited to or paid into the said fund there shall be credited to or paid into (as the case may be) the said fund—

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- (a) all moneys received in repayment of loans to students from the said fund, with the interest on such loans; **S. 36(2)(a) amended by No. 8638 s. 17(a)(i).**
- (b) any other moneys received by the council for the purpose of being paid into or credited to the said fund; and **S. 36(2)(b) amended by No. 8638 s. 17(a)(ii).**
- (c) such other moneys of the University as the council may determine. **S. 36(2)(c) inserted by No. 8638 s. 17(a)(iii), amended by No. 9619 s. 18(a).**
- (3) Out of the said fund loans may be made to the students of the University who are nominated in that behalf by the council or an officer of the University appointed for the purpose by the council. **S. 36(3) substituted by No. 8638 s. 17(b), amended by No. 9619 s. 18(b).**
- * * * * *
- S. 36(3A) inserted by No. 7545 s. 6, repealed by No. 9619 s. 18(c).**
- (4) The said fund shall be administered in accordance with statutes or regulations of the University which statutes or regulations the University is hereby authorized to make; and, without affecting the generality of this provision, such statutes or regulations may provide for the number of loans to be made in every year, the terms and conditions on which loans may be made, the interest chargeable on loans, and the repayment of loans. **S. 36(4) amended by No. 9619 s. 18(d).**
- (5) Any moneys standing to the credit of the said fund and not immediately required for loans to students may be invested in any manner whatsoever approved by the council; and the interest arising from any such investment shall be paid into and form part of the said fund. **S. 36(5) amended by Nos 8638 s. 17(c), 9619 s. 18(e).**
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s. 37

S. 36(6)
repealed by
No. 9619
s. 18(f).

* * * * *

S. 36(7)
amended by
No. 9619
s. 18(g).

- (7) If at any time any sums lawfully payable in respect of claims against the Assurance Fund under the **Transfer of Land Act 1954** exceed the amount standing to the credit thereof there shall be paid into the said Assurance Fund out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) such sum or sums as may be required to meet such excess but not exceeding in all (in the case of any amounts theretofore transferred out of the said Assurance Fund under the authority of section twenty-nine of the **University Act 1923** to the University Students Loan Fund) the amounts so transferred and not repaid.

Division 3—Trust property

Nos 3795
s. 37, 4191
s. 2.

37 Power to appoint the corporation of the University custodian trustee of trust properties constituting endowments

- (1) Where trust property constituting the endowment of any scholarship, exhibition or prize awarded by the University or constituting any other endowment of the University is held by trustees other than the body politic and corporate of the University itself (hereinafter referred to as *the corporation*) the person having power to appoint new trustees may by deed appoint the corporation to be the custodian trustee of the trust property.
- (2) The power to appoint the corporation to be custodian trustee may be exercised whether or not the number of trustees has been reduced below the original number.

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- (3) Upon every such appointment being made the following provisions shall have effect—
- (a) the trust property shall where necessary be transferred to the corporation as if the corporation were the sole trustee and for that purpose vesting orders may where necessary be made under the **Trustee Act 1958** or the **Transfer of Land Act 1958**;
 - (b) the management of the trust property and the exercise of any power or discretion exercisable by the trustees under the trust shall remain vested in the trustees other than the corporation (which trustees are hereinafter referred to as the *managing trustees*);
 - (c) as between the corporation and the managing trustees, and subject and without prejudice to the rights of any other persons, the corporation shall have the custody of all securities and documents of title relating to the trust property, but the managing trustees shall have free access thereto and be entitled to take copies thereof or extracts therefrom;
 - (d) the corporation shall concur in and perform all acts necessary to enable the managing trustees to exercise their powers of management or any other power or discretion vested in them (including the power to pay money or securities into court) unless the matter in which the corporation is requested to concur is a breach of trust, or involves a personal liability on the corporation in respect of calls or otherwise, but unless the corporation so concurs the corporation shall not be liable for any act or default on the part of the managing trustees or any of them;
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S. 37(3)(e)
Proviso
amended by
No. 11/2001
s. 3(Sch.
item 49.2).

- (e) all sums payable to or out of the income or capital of the trust property shall be paid to or by the corporation:

Provided that the corporation may allow the dividends and other income derived from the trust property to be paid to the managing trustees or to such person as they direct or into such authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth to the credit of such person as they direct, and in such case shall be exonerated from seeing to the application thereof and shall not be answerable for any loss or misapplication thereof;

- (f) the power of appointing new trustees, when exercisable by the trustees, shall be exercisable by the managing trustees alone, but the corporation when so appointed as aforesaid shall have the same power of applying to the court for the appointment of a new trustee as any other trustee; and
- (g) in determining the number of trustees for the purposes of the **Trustee Act 1958** the corporation shall not be reckoned as a trustee.
- (4) The corporation shall not be appointed as custodian trustee where the will settlement or other instrument creating the trust contains a direction to the contrary.
- (5) This section applies whether the trust was created before or after the passing of this Act.

38 Establishment of investment pools

No. 4800 s. 2.

- (1) The council may establish one or more investment pools for the collective investment of any trust funds and other funds held by or in the custody of the University.
- (2) The council may from time to time bring into or withdraw from any such investment pool the whole or any part of any trust fund or other fund held by or in the custody of the University.
- (3) The power of the council to bring into an investment pool the whole or any part of a trust fund may be exercised notwithstanding any direction to the contrary, whether express or implied, contained in the trust instrument.
- (4) The council shall not bring into or retain in any investment pool the whole or any part of any trust fund unless all the securities in which the capital of the investment pool is invested are securities in which the trust fund may properly be invested.

S. 38(3)
substituted by
No. 9619 s. 19.

39 Distribution of income of investment pools

No. 4800 s. 3.

- (1) The council shall periodically distribute the income of each investment pool among the funds participating in the pool having regard to the extent of the participation by each fund during the relevant accounting period, but may, if it considers it expedient so to do, from time to time add some portion of such income to the capital of the pool or establish a fund or funds as a provision against capital depreciation or reduction in income.
- (2) The council may, out of the annual income of a trust fund in an investment pool, periodically deduct an amount not exceeding 5% of the annual income of that trust fund as commission for the administration of that trust fund.

S. 39
amended by
No. 26/2003
s. 20 (ILA
s. 39B(1)).

S. 39(2)
inserted by
No. 26/2003
s. 20.

s. 40

S. 39(3)
inserted by
No. 26/2003
s. 20.

(3) The commission deducted in accordance with subsection (2) is to be received and accepted by the University as full payment to it for the costs of administration of the trust fund.

S. 39(4)
inserted by
No. 26/2003
s. 20.

(4) The University must not make any other charges on the trust fund in addition to the commission received under subsection (3), except in accordance with the trust deed.

No. 4866 s. 2.

40 Sections 38 and 39 to apply to affiliated colleges

The provisions of the last two preceding sections shall extend and apply with such adaptations as are necessary to the residential colleges affiliated with the University.

Pt 2 Div. 3A
(Heading)
inserted by
No. 105/1994
s. 14.

Division 3A—Formation and membership of companies, joint ventures etc.

S. 40A
inserted by
No. 10238 s. 9.

40A Formation of and participation in limited companies in Victoria

S. 40A(1)
amended by
Nos 70/1997
s. 35,
40/2005 s. 42.

(1) If, in the opinion of the council, it is in the interests of the management or conduct of the affairs or concerns of the University to do so, the University may—

- (a) be a member of a limited company; or
- (b) form, or participate in the formation of, a limited company—

the objects, activities or purposes of which include one or more of the following objects, activities or purposes—

- (c) providing facilities or services for study, research or education;
- (d) undertaking research, development, consultancy or other services for commercial organizations, public bodies or individuals;

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- (e) aiding or engaging in the development or promotion of university research or the application or use of the results of such research;
- (f) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audio-visual material or computer software;
- (g) seeking or encouraging gifts to the University or for University purposes;
- (h) promoting or assisting drama, music, or the visual arts.
- (2) The University shall not, under subsection (1), form, participate in the formation of or be a member of, a limited company unless the constitution of the limited company provides that—
- S. 40A(2)**
amended by
No. 44/2001
s. 3(Sch.
item 79.1(a)).
- (a) the company shall not alter the constitution of the limited company unless the council has by resolution authorized the alteration; and
- (b) the company shall, where its total annual income exceeds, or may reasonably be expected to exceed, \$100 000, cause a report by a registered company auditor on the accounts of the company to be made every twelve months and to be submitted to the council within three months after the end of each twelve month period to which the report relates.
- (3) Where, under subsection (1)—
- (a) the University forms, participates in the formation of or is a member of, a limited company; and
-

s. 40A

(b) the University has a controlling interest in that company—

the University shall—

S. 40A(3)(ba)
inserted by
No. 105/1994
s. 15.

(ba) notify the Minister within 30 days after the formation, participation or membership of the name of the company and the reasons the Council decided that the formation, participation or membership was required; and

(c) include in its annual report a copy of the accounts of the limited company in respect of the financial year ending during the period to which the University's annual report relates; and

S. 40A(3)(d)
amended by
No. 44/2001
s. 3(Sch.
item 79.1(b)).

(d) within 14 days of lodging any report, statement or return in respect of the limited company with the Australian Securities and Investments Commission under the Corporations Act, submit a copy of the report, statement or return to the Treasurer.

S. 40A(4)
substituted by
No. 44/2001
s. 3(Sch.
item 79.2).

(4) For the purposes of subsection (3), the University has a controlling interest in a company if the University would have a substantial holding in the company as defined in section 9 of the Corporations Act if the reference to 5% in paragraph (a) of the definition of *substantial holding* in that section were replaced by a reference to 50%.

S. 40A(5)
repealed by
No. 44/2001
s. 3(Sch.
item 79.2).

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- (6) Where the University forms, participates in the formation of or is a member of, a limited company to which subsection (3) applies, the accounts of the limited company shall be audited annually by the Auditor-General.
- (7) The requirements of subsection (6) are in addition to the requirements of the Corporations Act.
- (8) The University shall pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of an audit under this section.
- (9) The following provisions shall apply to the annual audit under subsection (6)—
- (a) the Auditor-General and any person assisting the Auditor-General shall have with respect to the accounts of the limited company all the powers conferred on the Auditor-General by any law relating to the auditing of public accounts;
- (b) the limited company shall within three months after the thirty-first day of December in every year cause its accounts to be balanced to that date and a statement of accounts to be prepared and submitted to the Auditor-General;
- (c) the statement of accounts shall be prepared in the manner and in the form approved by the Minister administering Part 7 of the **Financial Management Act 1994** and shall present fairly the financial transactions of the limited company during the year and the financial position of the limited company at the end of the year;
- S. 40A(6) amended by Nos 93/1997 s. 28(Sch. item 20.1(a)), 53/1999 s. 26(Sch. item 16(a)).
- S. 40A(7) amended by No. 44/2001 s. 3(Sch. item 79.3).
- S. 40A(9)(a) amended by Nos 93/1997 s. 28(Sch. item 20.1(b)), 53/1999 s. 26(Sch. item 16(b)).
- S. 40A(9)(c) amended by No. 46/1998 s. 7(Sch. 1).

s. 40B

S. 40A(9)(d)
amended by
No. 46/1998
s. 7(Sch. 1).

(d) the Auditor-General shall forward to the Minister administering Part 7 of the **Financial Management Act 1994** a copy of the audited annual accounts.

S. 40A(10)
substituted by
No. 93/1997
s. 28(Sch.
item 20.2),
amended by
No. 53/1999
s. 26(Sch.
item 16(b)).

- (10) Without limiting the generality of subsection (9)(a), the Auditor-General and any person assisting the Auditor-General—
- (a) has right of access at all times to the books, securities, accounts and vouchers of the limited company; and
 - (b) may require from an officer or employee of the limited company any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.

(11) Subsections (6), (8) and (10) shall not apply to a limited company of which the University has ceased to be a member before the last preceding annual audit.

S. 40A(12)
substituted by
No. 44/2001
s. 3(Sch.
item 79.4).

(12) In this section, *limited company* means a limited company within the meaning of the Corporations Act that is taken to be registered in Victoria.

S. 40B
inserted by
No. 10238 s. 9.

40B Formation of and participation in companies, joint ventures etc.

S. 40B(1)
amended by
Nos 105/1994
s. 16(1)(a)(b),
70/1997
s. 35,
40/2005 s. 42.

- (1) If, in the opinion of the council, it is in the interests of the management or conduct of the affairs or concerns of the University to do so, the University may—
- (a) be a member of a company, association or partnership;
 - (b) form, or participate in the formation of, a company, association or partnership; or

- (c) enter into a joint venture with another person or persons—

the objects, activities or purposes of which include one or more of the following objects, activities or purposes—

- (d) providing facilities or services for study, research or education;
- (e) undertaking research, development, consultancy or other services for commercial organizations, public bodies or individuals;
- (f) aiding or engaging in the development or promotion of university research or the application or use of the results of such research;
- (g) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audio-visual material or computer software;
- (h) seeking or encouraging gifts to the University or for University purposes;
- (i) promoting or assisting drama, music, or the visual arts.

- (2) In this section a reference to a company, association, partnership or joint venture includes a reference to a company, association, partnership or joint venture formed or entered into whether in or outside Victoria but does not include a reference to a limited company within the meaning of the Corporations Act that is taken to be registered in Victoria or any other company, association, partnership or joint venture formed or entered into, or that could have been formed or entered into, by the University before the commencement of section 9 of the **Melbourne University (Amendment) Act 1985** under and in

S. 40B(2)
amended by
No. 44/2001
s. 3(Sch.
item 79.5).

s. 40C

accordance with this Act as in force before the commencement.

S. 40B(3)
inserted by
No. 105/1994
s. 16(2).

- (3) If the University does any of the things mentioned in subsection (1)(a), (b) or (c), the University, must within 30 days after doing so, notify the Minister of the name or description of the company, association, partnership or joint venture and the reasons the Council decided the membership, formation or participation or entry into the joint venture was required.

S. 40C
inserted by
No. 26/2003
s. 21.

40C Audit of companies

- (1) If the University—
- (a) forms, participates in the formation of, or is a member of, a company under section 40B that is not incorporated or taken to be incorporated under the Corporations Act; and
 - (b) has a substantial holding in the company as defined in section 9 of the Corporations Act with the modification that the reference to 5% in paragraph (a) of the definition of *substantial holding* in that section is to be read as 50%—

the accounts of the company shall be audited annually by the Auditor-General.

- (2) The following provisions apply to the annual audit under subsection (1)—
- (a) the Auditor-General and any person assisting the Auditor-General has with respect to the accounts of the company all the powers conferred on the Auditor-General by any law relating to the auditing of public accounts;

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- (b) the company must within 3 months after 31 December in every year cause its accounts to be balanced to that date and a statement of accounts to be prepared and submitted to the Auditor-General;
 - (c) the statement of accounts shall be prepared in the manner and in the form approved by the Treasurer and shall present fairly the financial transactions of the company during the year and the financial position of the company at the end of the year;
 - (d) the Auditor-General must forward to the Treasurer a copy of the audited annual accounts.
- (3) Without limiting the generality of subsection (2)(a), the Auditor-General and any person assisting the Auditor-General—
- (a) has right of access at all times to the books, securities, accounts and vouchers of the company; and
 - (b) may require from an officer or employee of the company or the University any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.
- (4) The University must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of an audit under this section.
- (5) This section does not apply to a company of which the University has ceased to be a member before the last preceding annual audit.
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s. 41

- (6) The Auditor-General is not required to audit the accounts of a company incorporated or formed in a place outside Australia under this section if—
- (a) under the law applying to that company in that place, the Auditor-General cannot be appointed as auditor of the company; or
 - (b) in the Auditor-General's opinion, it is impracticable or unreasonable for the Auditor-General to audit, or be required to audit, the accounts.

Division 4—Audit

No. 3795 s. 38.

41 Audit of income and expenditure of University

- (1) The council shall arrange for a continuous audit of the income and expenditure of the University and such audit shall be made at such intervals not exceeding one month as the Governor directs.

S. 41(2) repealed by No. 31/1994 s. 4(Sch. 2 item 53).	*	*	*	*	*
S. 41(3) amended by Nos 9123 s. 4, 9619 s. 20 (as amended by No. 9902 s. 2(1)(Sch. item 170)), 10238 s. 10(k), repealed by No. 31/1994 s. 4(Sch. 2 item 53).	*	*	*	*	*
S. 41(4) repealed by No. 31/1994 s. 4(Sch. 2 item 53).	*	*	*	*	*

Division 5—Property

Pt 2 Div. 5
(Heading and
s. 41A)
inserted by
No. 7871 s. 2.

41A Acquisition of land

S. 41A
inserted by
No. 7871 s. 2.

- (1) The Minister after consultation with the Council may by agreement or compulsorily acquire any land for the purposes of or in connexion with the University.
- (2) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—
- (a) the **Melbourne University Act 1958** is the special Act; and
- (b) the Minister is the Authority.

S. 41A(2)
substituted by
No. 121/1986
s. 112(Sch.).

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S. 41A(3)
substituted by
No. 8485
s. 2(a),
repealed by
No. 121/1986
s. 112(Sch.).

- (3A) Any land acquired by agreement under this Act by the Minister shall be conveyed or transferred to the Crown, and may notwithstanding anything to the contrary in any Act be dealt with as unalienated Crown land.
- (3B) Any land acquired compulsorily under this Act by the Minister—
- (a) vests in the Crown under section 24 of the **Land Acquisition and Compensation Act 1986** despite anything to the contrary in that section; and
- (b) may be dealt with as unalienated Crown land despite anything to the contrary in any Act.

S. 41A(3A)
inserted by
No. 8485
s. 2(b),
amended by
No. 121/1986
s. 112(Sch.).

S. 41A(3B)
inserted by
No. 121/1986
s. 112(Sch.).

s. 41B

S. 41A(4)
amended by
No. 8485
s. 2(c).

(4) Any unalienated Crown land may notwithstanding anything to the contrary in the **Land Act 1958**—

(a) be granted in fee simple to the University or to any educational institution affiliated or connected therewith for such consideration (if any) and subject to such conditions limitations and restrictions as the Governor in Council determines; or

S. 41A(4)(b)
amended by
No. 9212
s. 2(2).

(b) be reserved pursuant to the **Crown Land (Reserves) Act 1978** either permanently or temporarily as a site for the purposes of the University or any such institution.

S. 41B
inserted by
No. 70/1997
s. 36.

41B Disposal of land

(1) The Council must not, without the prior approval of the Minister, alienate (whether in fee simple or for a lesser estate or interest except a leasehold interest not exceeding 21 years and whether totally or partially or subject to conditions) any land granted in fee simple under section 41A(4)(a).

(2) The Council must not, without the prior approval of the Minister—

S. 41B(2)(a)
amended by
No. 40/2005
s. 41.

(a) alienate any interest in fee simple in any land owned by the University, other than land referred to in section 41A(4)(a), if the sum of the consideration for the transfer or conveyance of that interest exceeds \$3 000 000 or any other amount that the Minister fixes by instrument published in the Government Gazette; or

(b) grant a lease for a term exceeding 21 years of any land owned by the University other than land referred to in section 41A(4)(a).

(3) Subsections (1) and (2) have effect despite any Act or law to the contrary, including any rule of common law.

PART III—GENERAL

No. 3795 s. 39.

42 No religious test to be administered

No religious test shall be administered to any person in order to entitle him to be admitted as a student of the University or to hold office therein or to graduate thereat or to hold any advantage or privilege thereof.

No. 3795 s. 40.

43 This Act to apply to both sexes

S. 43
amended by
Nos 8638
s. 18, 9123
s. 5(a).

- (1) The provisions of this Act shall extend to both sexes, and every person who has fulfilled the conditions prescribed by the statutes and regulations of the University for the time being for matriculation or for admission to any degree diploma certificate or licence may be admitted to matriculate or to such degree, or may receive such diploma certificate or licence as the case may be.
- (2) No person shall be required to be a member of any body or organization in order to entitle him to be admitted as a student of the University or to graduate thereat.

S. 43(2)
inserted by
No. 9123
s. 5(b).

No. 3795 s. 41.

44 Fine to be civil debt recoverable summarily

S. 44
substituted by
No. 9619 s. 21
(as amended
by No. 9902
s. 2(1)(Sch.
item 171)).

- (1) A fine imposed upon a member of the staff of the University or a student pursuant to the statutes and regulations shall be a civil debt recoverable summarily by the University in any court of competent jurisdiction.
- (2) A certificate in writing signed by the vice-chancellor and principal or a person appointed by him for the purpose as to the amount of a fine imposed upon a member of the staff of the University or a student pursuant to the statutes and regulations, and giving particulars of the date of and reasons for the imposition of the fine, shall be

prima facie evidence of the facts stated therein in all courts and before all persons acting judicially.

45 General provision as to failure to elect or to make appointments within time provided

No. 3795 s. 42.

No election or appointment under this Act shall be deemed to be invalid by reason only of such election or appointment being made subsequently to the time provided for in this Act; and any person so elected or appointed shall be entitled to continue in the office to which he is so elected or appointed as if he had been elected or appointed thereto at such time.

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S. 46
repealed by
No. 70/1995
s. 19.

47 Visitor

S. 47
substituted by
No. 57/1996
s. 32.

(1) The person who holds the office of Governor of the State is the Visitor of the University and as Visitor has power to do anything necessary to carry out the duties and functions of the Visitor.

(1A) The Visitor has ceremonial functions only and has no powers, duties or functions with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

S. 47(1A)
inserted by
No. 26/2003
s. 22.

(2) The Visitor may authorise a person to act as Visitor in his or her place—

(a) in relation to any particular matter concerning the affairs of the University; or

(b) during any period when the Visitor is absent or unable to act.

Melbourne University Act 1958
No. 6405 of 1958
Part III—General

s. 47

- (3) The person who is authorised to act as Visitor under subsection (2) has all the powers, duties and functions of the Visitor to the extent, or for the period of, the authorisation under that subsection.
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PART IV—TRANSITIONAL

Pt 4
(Heading
and s. 48)
inserted by
No. 70/1997
s. 37.

48 First Council appointments for 1998

S. 48
inserted by
No. 70/1997
s. 37.

- (1) The members of the Council of The University of Melbourne, except the Chancellor, the person who is the vice-chancellor and principal and the person who is the chairperson of the Academic Board are deemed to have gone out of office at the end of 31 December 1997 but are eligible for re-election or re-appointment as members of the Council.
- (2) In the case only of the first appointments and elections of members to take effect on 1 January 1998—
 - (a) the 3 members referred to in section 5(2)(d) shall be persons appointed by the Minister who, on 31 December 1997, were members of the staff of Melbourne University;
 - (b) the 2 members referred to in section 5(2)(e) shall be persons appointed by the Minister who, on 31 December 1997 were enrolled students of Melbourne University;
 - (c) the 6 members referred to in section 5(2)(h) shall be persons appointed by the members of the Council in office before 31 December 1997.
- (3) Of the members appointed by the Minister under subsection (2)(a)—
 - (a) one must be appointed until 31 December 1998;
 - (b) 2 must be appointed until 31 December 1999.

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- (4) The members appointed by the Minister under subsection (2)(b) must be appointed until 31 December 1998.
- (5) Of the members appointed by the Council under subsection (2)(c)—
- (a) 2 must be appointed until 31 December 1998;
 - (b) 2 must be appointed until 31 December 1999;
 - (c) 2 must be appointed until 31 December 2000.
- (6) In the case only of the first appointments of members to the Council by the Governor in Council under section 5(2)(f) to take effect on 1 January 1998—
- (a) 2 must be appointed until 31 December 1998;
 - (b) 2 must be appointed until 31 December 1999;
 - (c) 2 must be appointed until 31 December 2000.
- (7) After the first appointments referred to in this section, all appointments and elections to the Council shall be made in accordance with the provisions of this Act other than this section.

S. 49
inserted by
No. 26/2003
s. 23.

49 Existing proceedings

- (1) Section 47(1A) applies with respect to disputes and other matters arising before the commencement of section 22 of the **University Acts (Amendment) Act 2003**.

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- (2) If an inquiry by or authorised by the Visitor into a dispute or other matter has been commenced or been completed before the commencement of section 22 of the **University Acts (Amendment) Act 2003**, the dispute or other matter is to be dealt with and determined as if that Act had not been enacted.

50 Change of name to president of academic board

S. 50
inserted by
No. 40/2005
s. 43.

- (1) The office of chairperson of the academic board and the title of the person holding that office, whether described as chairman, chairperson or president is to be called the president of the academic board.
- (2) The office of president of the academic board and the person holding that office continues to be the same after as before the change of name and no act, matter or thing is affected by that change.

51 Transitional—members of Council

S. 51
inserted by
No. 40/2005
s. 43.

Section 6(1B) does not apply to a member of the Council appointed or elected immediately before the commencement of section 33 of the **Higher Education Acts (Amendment) Act 2005** with respect to that appointment or election but does apply to that member in relation to any further appointment or election to the Council after that date.

Melbourne University Act 1958
No. 6405 of 1958

Sch.

SCHEDULE

Section 2

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
3795	University Act 1928	So much as is not already repealed
4116	University Act 1933	The whole
4166	University (Grant) Act 1933	The whole
4191	Statute Law Revision Act 1933	The item in Schedule referring to the University Act 1928
4800	University (Funds) Act 1941	The whole
4866	University (Funds) Amendment Act 1941	The whole
5044	Agricultural Colleges Act 1944	Section 14(3)
5092	University (Veterinary Research) Act 1945	The whole
5162	University (Mildura Branch) Act 1946	The whole
5237	University (Mildura Branch) Act 1947	The whole
5457	University (Veterinary Research) Act 1950	The whole
5579	University Act 1951	The whole
6185	University (Council) Act 1958	The whole

ENDNOTES

1. General Information

The **Melbourne University Act 1958** was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 893.

The name of this Act was changed from the **University Act 1958** to the **Melbourne University Act 1958** by the **Universities (Amendment) Act 1965**, No. 7362/1965 section 9(2).

2. Table of Amendments

This Version incorporates amendments made to the **Melbourne University Act 1958** by Acts and subordinate instruments.

University (Honorary Degrees) Act 1959, No. 6502/1959

Assent Date: 5.5.59
Commencement Date: 5.5.59
Current State: All of Act in operation

University (Officers) Act 1961, No. 6802/1961

Assent Date: 5.12.61
Commencement Date: 5.12.61
Current State: All of Act in operation

University (Amendment) Act 1963, No. 7068/1963

Assent Date: 3.12.63
Commencement Date: 3.12.63
Current State: All of Act in operation

University (Faculties) Act 1964, No. 7141/1964

Assent Date: 5.5.64
Commencement Date: 5.5.64
Current State: All of Act in operation

Universities (Amendment) Act 1965, No. 7362/1965

Assent Date: 21.12.65
Commencement Date: 21.12.65
Current State: All of Act in operation

Melbourne University (Chancellorship) Act 1966, No. 7426/1966

Assent Date: 24.5.66
Commencement Date: 24.5.66
Current State: All of Act in operation

Education and Teaching Service (Amendment) Act 1967, No. 7533/1967

Assent Date: 17.3.67
Commencement Date: 17.3.67
Current State: All of Act in operation

Melbourne University (Amendment) Act 1967, No. 7545/1967

Assent Date: 17.3.67
Commencement Date: 17.3.67
Current State: All of Act in operation

Melbourne University (Council) Act 1968, No. 7758/1968

Assent Date: 18.12.68
Commencement Date: 18.12.68
Current State: All of Act in operation

Melbourne University Act 1958
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Endnotes

Melbourne University (Property) Act 1969, No. 7871/1969

Assent Date: 5.11.69
Commencement Date: 5.11.69
Current State: All of Act in operation

Statute Law Revision Act 1971, No. 8181/1971

Assent Date: 23.11.71
Commencement Date: 23.11.71
Current State: All of Act in operation

Educational Lands Act 1973, No. 8485/1973

Assent Date: 27.11.73
Commencement Date: 27.11.73
Current State: All of Act in operation

Melbourne University (Amendment) Act 1974, No. 8638/1974 (as amended by No. 9019)

Assent Date: 17.12.74
Commencement Date: 15.1.75: Government Gazette 15.1.75 p. 85
Current State: All of Act in operation

Melbourne University (Amendment) Act 1978, No. 9123/1978

Assent Date: 16.5.78
Commencement Date: 26.6.78: Government Gazette 21.6.78 p. 1773
Current State: All of Act in operation

Crown Land (Reserves) Act 1978, No. 9212/1978

Assent Date: 19.12.78
Commencement Date: 1.3.79: Government Gazette 21.2.79 p. 441
Current State: All of Act in operation

Statute Law Revision Act 1980, No. 9427/1980

Assent Date: 27.5.80
Commencement Date: 27.5.80, subject to s. 6(2)
Current State: All of Act in operation

Crimes (Classification of Offences) Act 1981, No. 9576/1981

Assent Date: 26.5.81
Commencement Date: 1.9.81: Government Gazette 26.8.81 p. 2799
Current State: All of Act in operation

Melbourne University (Amendment) Act 1981, No. 9619/1981 (as amended by Nos 9902, 10238)

Assent Date: 1.12.81
Commencement Date: S. 3(1)(a) on 15.1.75: s. 3(2): rest of Act on 18.12.81: Government Gazette 16.12.81 p. 4151
Current State: All of Act in operation

Post-Secondary Education (Amendment) Act 1981, No. 9711/1981

Assent Date: 5.1.82
Commencement Date: S. 3 on 29.10.86: Government Gazette 29.10.86 p. 4115
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Melbourne University Act 1958
No. 6405 of 1958

Endnotes

Companies (Consequential Amendments) Act 1982, No. 9761/1982

Assent Date: 13.7.82
Commencement Date: S. 2 on 30.3.82: s. 2(2); rest of Act on 1.7.82: s. 1(2)
Current State: All of Act in operation

Melbourne University (Amendment) Act 1985, No. 10238/1985

Assent Date: 10.12.85
Commencement Date: S. 11 on 18.12.81: s. 11(2); rest of Act on 7.1.86: s. 2
Current State: All of Act in operation

Land Acquisition and Compensation Act 1986, No. 121/1986

Assent Date: 23.12.86
Commencement Date: 29.11.87: Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 3(Sch. 1 item 41) on 7.7.94: Government Gazette 7.7.94 p. 1878—See **Interpretation of Legislation Act 1984**; s. 4(Sch. 2 item 53) on 1.1.95: Government Gazette 28.7.94 p. 2055
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

University Acts (Amendment) Act 1994, No. 105/1994

Assent Date: 13.12.94
Commencement Date: Ss 3–17 on 1.1.95: Government Gazette 22.12.94 p. 3384
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

University Acts (Further Amendment) Act 1995, No. 70/1995

Assent Date: 17.10.95
Commencement Date: Ss 13–19 on 1.11.95: Special Gazette (No. 109) 1.11.95 p. 1
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Trustee and Trustee Companies (Amendment) Act 1995, No. 104/1995

Assent Date: 5.12.95
Commencement Date: 1.1.96: s. 2
Current State: All of Act in operation

University Acts (Amendment) Act 1996, No. 57/1996

Assent Date: 10.12.96
Commencement Date: Ss 31, 32 on 10.12.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Melbourne University (VCAH) Act 1997, No. 9/1997

Assent Date: 29.4.97
Commencement Date: S. 13 on 1.7.97: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Melbourne University Act 1958
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University Acts (Further Amendment) Act 1997, No. 70/1997

Assent Date: 18.11.97
Commencement Date: Ss 24–37 on 1.1.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Audit (Amendment) Act 1997, No. 93/1997

Assent Date: 16.12.97
Commencement Date: S. 28(Sch. item 20) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Audit (Amendment) Act 1999, No. 53/1999

Assent Date: 14.12.99
Commencement Date: S. 26(Sch. item 16) on 1.1.00: Government Gazette 23.12.99 p. 2764
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 49) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 79) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

University Acts (Amendment) Act 2003, No. 26/2003

Assent Date: 13.5.03
Commencement Date: Ss 17–23 on 1.7.03: Government Gazette 26.6.03 p. 1548
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

Higher Education Acts (Amendment) Act 2005, No. 40/2005

Assent Date: 27.7.05
Commencement Date: Ss 31–43 on 31.8.05: S. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne University Act 1958**

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Endnotes

Melbourne University (Victorian College of the Arts) Act 2006, No. 62/2006

Assent Date: 29.8.06

Commencement Date: S. 12 on 1.1.07: s. 2(2)

Current State: This information relates only to the provision/s
amending the **Melbourne University Act 1958**

3. Explanatory Details

¹ S. 17(2): Section 7(2) of the **University Acts (Amendment) Act 1994**, No. 105/1994 reads as follows:

7 Statutes and regulations

(2) All standing resolutions made by the Council of the University of Melbourne which were in force immediately before the commencement of this section—

(a) continue to have effect; and

(b) may be amended or revoked—

as if made as regulations under a Statute of the University.