

**Version No. 021**  
**Victoria University of Technology Act 1990**

**Act No. 21/1990**

Version incorporating amendments as at 1 January 1999

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**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1. Purpose**

The purpose of this Act is to establish the Victoria University of Technology and provide for the incorporation into that University of the following—

(a) Footscray Institute of Technology;

\*            \*            \*            \*            \*

**S. 1(b)**  
**repealed by**  
**No. 105/1994**  
**s. 35(a).**

(c) The Western Institute.

**2. Commencement**

- (1) Section 54 comes into operation on 1 January 1992 or, if the Governor in Council by proclamation published in the Government Gazette fixes an earlier day for that section to come into operation, that earlier day.
- (2) Subject to sub-section (1), this Act comes into operation on a day or days to be proclaimed.

### **3. Definitions**

In this Act—

S. 3 def. of  
"Amalga-  
mating  
Institute"  
substituted by  
No. 105/1994  
s. 35(b).

**"Amalgamating Institute"** means—

- (a) Footscray Institute of Technology;
- (b) The Western Institute;

**"Appointed Day"** means the day on which section 54 comes into operation;

**"Council"** means the Council of the University;

**"diplomate"** means a person whose name is inscribed under the Statutes on a roll kept by the University of the names of the holders of such diplomas granted by the University as are prescribed by the Statutes;

**"enrolled student"** means—

- (a) a student enrolled for a program or course of study in the University; or
- (b) a post-graduate student;

**"Establishment Day"** means the day on which section 4 comes into operation;

**"graduate"** means a person whose name is inscribed under the Statutes on a roll kept by the University of the names of the holders of prescribed degrees conferred by the University;

S. 3 def. of  
"post-  
graduate  
student"  
substituted by  
No. 57/1996  
s. 33.

**"post-graduate student"** means a student enrolled as a candidate for a graduate diploma, degree of Master or Doctor or any other post-graduate course for admission to which completion of a degree is normally required;

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**"prescribed"** means prescribed by this Act or by the Statutes or regulations of the University;

**"regulations"** means regulations under the Statutes;

**"staff"**, in relation to the University, means—

- (a) persons employed by the University;  
and
- (b) persons in teaching or management positions at the University but not employed by the University;

**"Statutes"** means Statutes of the University made by the Council under this Act;

**"University"** means Victoria University of Technology established and incorporated under this Act;

**"Western Metropolitan Region of Melbourne"** means the municipal districts of Altona, Bacchus Marsh, Broadmeadows, Bulla, Essendon, Footscray, Keilor, Melton, Sunshine, Werribee and Williamstown.

**PART 2—VICTORIA UNIVERSITY OF TECHNOLOGY**

**4. *The University***

- (1) There is established a University to be known as "Victoria University of Technology".
- (2) The University is a body politic and corporate consisting of—
  - (a) a Council; and
  - (b) such members of the academic, teaching and other staff as are prescribed; and
  - (c) the enrolled students of the University; and
  - (d) such other persons as are prescribed by the Statutes.
- (3) The University—
  - (a) has perpetual succession; and
  - (b) shall have a common seal; and
  - (c) is capable in law of suing and being sued; and
  - (d) may acquire, hold and dispose of real and personal property; and
  - (e) is capable of doing and suffering all acts, matters and things that a body corporate may by law do or suffer.

**5. *Common seal***

- (1) The common seal of the University must be kept in such custody as the Council directs and must not be used except by resolution of the Council or in such other manner as is authorised by the Statutes.
- (2) All courts and persons acting judicially must take judicial notice of the common seal of the

University affixed to any document and, until the contrary is proved, must presume that it was duly affixed.

**6. Objects of the University**

The objects of the University include—

- (a) the development of an institution with excellence in teaching, training, research and scholarship, with particular emphasis on technological development and applications of knowledge;
- (b) the provision of high quality educational, research, residential, social, recreational, sporting and other facilities; S. 6(b)  
substituted by  
No. 105/1994  
s. 28(a).
- (c) the promotion, advancement and transmission of knowledge and its practical application by research and other means, the dissemination by various means of the outcomes of research and the commercial exploitation of the results of that research; S. 6(c)  
substituted by  
No. 105/1994  
s. 28(a).
- (d) the provision of a wide range of programs and courses of study in post-secondary education, including courses of instruction or training relevant to a trade or other skilled occupation and facilitation of articulation between programs;
- (e) the participation in commercial ventures and activities; S. 6(e)  
substituted by  
No. 105/1994  
s. 28(b).
- (ea) the conduct of teaching, research, consultancy and development activities within and outside Australia; S. 6(ea)  
inserted by  
No. 105/1994  
s. 28(b).
- (f) the fostering of the general welfare and development of all enrolled students;



S. 6(k)  
 amended by  
 No. 105/1994  
 s. 28(c).

- (g) the conferring of prescribed degrees and the granting of prescribed diplomas, certificates and other awards;
- (h) the offering of opportunities for development and further training to teaching and other staff of the university;
- (i) the development and provision of educational, cultural, professional, technical and vocational services to the community and in particular the fostering of participation in post-secondary education for persons living or working in the Western Metropolitan Region of Melbourne;
- (j) the provision of programs and services in ways which reflect principles of equity and social justice;
- (k) generally the development and carrying on of a university providing such appropriate and accessible academic and other programs, courses of study and research activity as the Council considers necessary for the attainment of the foregoing within Victoria and elsewhere.

S. 7  
 amended by  
 No. 105/1994  
 ss 29(1)-(3),  
 35(c),  
 substituted by  
 No. 70/1997  
 s. 67.

### **7. *The Council***

- (1) The Council is the governing authority of the University and has the direction and superintendence of the University.
- (2) The Council shall consist of—
  - (a) the Chancellor;
  - (b) the Vice-Chancellor;
  - (c) the Chairperson of the Academic Board;

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- (d) the Chairperson of the Board of Technical Studies or, if that person is not a member of the staff of the University, a member of the staff nominated by that Board;
  - (e) 3 persons elected, by and from the staff of the University prescribed by the Statutes;
  - (f) 2 persons elected by and from the students enrolled at the University prescribed by the Statutes;
  - (g) 6 persons appointed by the Governor in Council;
  - (h) one person appointed by the Minister;
  - (i) 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 appointed under sub-section (2)(e) must be elected from the staff who are professors or associate professors.
- (4) Of the members appointed under sub-section (2)(g) and (i)—
- (a) one must be a person with substantial business experience;
  - (b) one must be a person with qualifications and experience in financial matters;
  - (c) one must be a person who has substantial knowledge or experience of vocational education and training;
  - (d) 3 must be persons who live or work in or about the Western Metropolitan Region of Melbourne.

- (5) Not more than 3 of the members appointed under sub-section (2)(g) and (i) may be persons whose normal place of residence is outside Australia.
- (6) Elections of members of the Council shall be conducted in accordance with the Statutes.

S. 8  
amended by  
No. 105/1994  
s. 29(4),  
substituted by  
No. 70/1997  
s. 68.

#### **8. *Term of office of Council members***

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 that his or her election takes effect.

#### **9. *Removal of appointed members***

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

#### **10. *Vacancies arising from other appointments etc.***

- (1) 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.
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- (2) If a member of the Council—
- (a) elected by staff ceases to be a member of staff; or
  - (b) elected by enrolled students, ceases to be an enrolled student—
- that member's office becomes vacant and shall be filled in the manner prescribed for the filling of casual vacancies.
- (3) Any change in the membership, or the academic rank of the member of, the Council under section 7(2)(c) does not affect the membership of the Council by a person elected under section 7(2)(e) during the term of appointment under section 7(2)(e).

S. 10(3)  
substituted by  
No. 70/1997  
s. 69.

#### **11. *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 upon the expiration of the term of office—

- (a) in the case of an election or the appointment of a person otherwise than under section 7(2)(i), may be made within 3 months before the date of expiration of the term of office of the retiring member or as soon as practicable after that date;
- (b) in the case of the appointment of a person under section 7(2)(i), may be made either at the last meeting of the Council held before the date of expiration of the term of office of the retiring member or as soon as practicable after that date.

#### **12. *Provision in case of failure of election***

If—

- (a) at an election of members of the Council—

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- (i) no vacancies are filled; or
- (ii) a number of vacancies less than the whole number which should have been filled is filled; or
- (b) an election of members of the Council which should have been held is not held—

the vacancies which should have been filled and are not filled shall severally be deemed to be casual vacancies and the members elected in due course to fill the vacancies are entitled to continue in office as if elected at the election.

**13. Resignation and removal from office**

- (1) A member of the Council, other than the Chancellor, may resign by writing delivered to the Chancellor.
- (2) The Chancellor may resign by writing delivered to the Council.
- (3) The Council must remove a member of the Council from office if the member—
  - (a) is an insolvent under administration within the meaning of the **Companies (Victoria) Code**; or
  - (b) is convicted of an offence referred to in section 227(2) of the **Companies (Victoria) Code**; or
  - (c) is a person to whom an order under section 562 of the **Companies (Victoria) Code** applies.
- (4) The Council may remove a member of the Council from office if—
  - (a) in the opinion of the Council, the member is incapable of performing his or her duties; or

S. 13(2)  
amended by  
No. 105/1994  
s. 30.

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- (b) in the opinion of the Council, the member refuses to perform, or is negligent in the performance of, his or her duties; or
  - (c) if the member, without the Council's approval, fails to attend three consecutive meetings; or
  - (d) the member is convicted of an indictable offence; or
  - (e) the member fails to disclose a pecuniary interest as required by section 16.

**14. *Casual vacancies***

- (1) If the office of a member of the Council becomes vacant otherwise than by reason of the expiry of the member's term of office, a person must be appointed or elected as prescribed to fill the vacancy and to hold office, subject to this Act, for the remainder of the term.
- (2) If the vacancy occurs within three months before the expiry of a member's term of office, the office may be left vacant for the remainder of the term.
- (3) Despite section 7(2)(g), 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. 14(3)  
inserted by  
No. 70/1997  
s. 70.

**15. *Chairperson of Council***

At a meeting of the Council, the Chancellor, or in the absence of the Chancellor, the Deputy Chancellor, shall preside and in the absence of the Chancellor and Deputy Chancellor, a member of the Council elected by the members present shall preside.

**16. *Pecuniary interests***

- (1) A member of the Council who has a pecuniary 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 sub-section (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 sub-section (1) or reported under sub-section (2) must cause a record of the declaration to be made in the minutes of the meeting.
- (4) After a declaration is made under sub-section (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.

**17. *Procedure of Council***

- (1) A question arising at a meeting of the Council shall be determined by a majority of votes of members present and voting on that question, unless this Act otherwise provides.
- (2) If voting on a question at a meeting of the Council is equal, the person presiding has a casting vote as well as a deliberative vote.

(3) A question (other than a question referred to in sub-section (3A), shall not be decided at a meeting of the Council unless there are present at the meeting at least 11 members.

S. 17(3)  
substituted by  
No. 105/1994  
s. 31.

(3A) A question of appointing one or more persons as members of the Council under section 7(2)(i) shall not be decided unless there are present at least 7 persons or one half of the members of the Council then in office, whichever is the greater, of whom not more than half hold office under section 7(2)(e) or (f).

S. 17(3A)  
inserted by  
No. 105/1994  
s. 31.

(4) The Council must meet at least six times in each year.

(5) Subject to this Act and the Statutes and regulations, the Council may regulate its own proceedings.

**17A. Resolutions without meetings of the Council**

S. 17A  
inserted by  
No. 70/1995  
s. 51.

(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 sub-section (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 sub-section (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 16, is not permitted to vote on the resolution.

S. 17B  
inserted by  
No. 70/1995  
s. 51.

**17B. *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 Part, a member of the Council who participates in a meeting held as permitted by sub-section (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.

**18. *Committees***

- (1) The Council, by resolution, may constitute and appoint such committees as it thinks fit.
- (2) A committee appointed by the Council must report to the Council on its activities at such times and in such manner as the Council directs.

**19. *Delegation***

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The Council may delegate all or any of its powers, authorities, duties and functions, other than—

- (a) the power to make Statutes; and
- (b) this power of delegation—

to a committee appointed by it, a member of the Council or a prescribed officer of the University.

**20. *Validity of decisions***

An act or decision of the Council is not invalid—

- (a) by reason only of a defect or irregularity in, or in connection with, the appointment or election of a member; or
- (b) by reason only of a vacancy in its membership, including a vacancy arising out of the failure to appoint or elect an original member; or
- (c) by reason only of a defect or irregularity in, or in connection with, the election of a person to preside at a meeting.

**21. *Indemnities***

The University must indemnify and keep indemnified each member of the Council and any member of a Committee constituted by resolution of the Council or by or under a Statute or regulation against all actions or claims (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 in good faith in the exercise or purported exercise of any powers or duty conferred or imposed upon the Council or Committee or upon any member or members of the Council by or under this Act.

**22. *Chancellor and Deputy Chancellor***

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- (1) The Council must elect as prescribed a person (whether or not a member of the Council) to be the Chancellor of the University.
- (2) A member of staff or an enrolled student is not eligible to be, or to continue to be, Chancellor.
- (3) The Chancellor holds office for a term of two years on such conditions as the Council determines and may be re-elected.
- (4) The Council must elect, as prescribed, a person to be Deputy Chancellor of the University from among the members of the Council appointed by the Governor in Council, the Minister or the Council.
- (5) The Deputy Chancellor holds office for such term and subject to such conditions as are prescribed and, if an eligible member of the Council, may be re-elected.
- (6) In the absence of the Chancellor, or during any vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor shall act as Chancellor and has all the powers and duties of the Chancellor.

S. 22(7)  
repealed by  
No. 105/1994  
s. 35(c).

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**23. *Vice-Chancellor***

- (1) The Council must appoint a person to be the Vice-Chancellor of the University.
- (2) The Vice-Chancellor holds office, unless he or she sooner resigns, retires or otherwise ceases to hold office, for such term and on such conditions as the Council determines and may be re-appointed.

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- (3) Subject to this Act, the Vice-Chancellor is the Chief Executive Officer of the University and has such powers and duties as prescribed.
  - (4) Unless the Statutes otherwise prescribe, the Vice-Chancellor may delegate any of the powers and duties of the Vice-Chancellor, other than this power of delegation, to any person or body of persons.

**24. *Acting Vice-Chancellors***

- (1) The Council may appoint a person (whether or not a member of the Council) to act as Vice-Chancellor.
- (2) The Acting Vice-Chancellor shall act as Vice-Chancellor during any vacancy in the office of Vice-Chancellor or during the absence or inability of the Vice-Chancellor to act and while so acting, has all the powers and duties of the Vice-Chancellor and, if not otherwise a member of the Council, is such a member.
- (3) If the Acting Vice-Chancellor is a member of the Council, otherwise than by reason of this section, and a vacancy in the office of Vice-Chancellor, or the absence or inability to act of the Vice-Chancellor, is likely to continue for at least three months—
  - (a) the Council may determine that the office of the member has become vacant; and
  - (b) if the Council so determines, a person must be appointed or elected as prescribed to fill the vacancy and to hold office, subject to this Act, for the period during which the member is acting as Vice-Chancellor.

## **25. Staff**

- (1) Subject to this Act and the Statutes and regulations, the Council may, on such terms and conditions as it determines, employ persons in teaching or other positions in the University.
- (2) The Council may terminate the employment of any member of staff employed by it but, in the case of a person employed in teaching in academic programs or courses of study or conducting research, may not terminate the employment unless the Council so resolves by the votes of at least two-thirds of the members of the Council present and voting and at least one half of the total number of members of the Council.
- (3) The Council may enter into arrangements with any person, agency or body for the engagement of persons as teaching or other staff in the University.
- (4) Sections 34A to 34C and Schedule 2 to the **Vocational Education and Training Act 1990** apply to the director of the Technical and Further Education Division of the University (however described) and to any other staff employed by the Council in that Division as if any reference in those provisions—
  - (a) to a council were a reference to the Council in its capacity as the governing authority of the Technical and Further Education Division of the University;
  - (b) to a college director were a reference to the director of the Technical and Further Education Division of the University (however described);

S. 25(4)  
inserted by  
No. 14/1993  
s. 17.

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- (c) to persons employed under section 34A of that Act were a reference to persons employed under this section;
  - (d) to persons employed under section 34A(1)(b) of that Act were a reference to persons (other than the director) employed under this section in the Technical and Further Education Division of the University.

**26. Awards of the University**

- (1) Subject to the Statutes and regulations, the Council may, after appropriate assessment, confer any degree or grant any diploma, certificate or other award.
- (2) The Statutes may provide—
  - (a) for the admission without examination to any degree, diploma, certificate or other award of any person who has graduated at any other University, at an Amalgamating Institute or at a prescribed institution; and
  - (b) for the admission honoris causa to any degree, diploma, certificate or other award of any person whether or not the person has graduated at a University.
- (3) The persons on whom degrees are conferred or diplomas, certificates or other awards granted under sub-section (2) are entitled to the same rights and privileges as those to which persons who have graduated after appropriate assessment in the University are entitled.
- (4) All degrees conferred and diplomas, certificates and other awards granted by the University must be evidenced by a certificate given under the common seal of the University.

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s. 26

**S. 26(5)**  
**amended by**  
**No. 70/1995**  
**s. 54(1).**

- (5) If the Statutes so provide, the Council may, in prescribed circumstances and in the manner prescribed, revoke any degree, diploma, certificate or other award conferred or granted by the University or by an Amalgamating Institute, whether before or after the commencement of section 54(1) of the **University Acts (Further Amendment) Act 1995**.
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**PART 3—DIVISIONS, FACULTIES AND BOARDS**

**27. *Technical and Further Education Division***

- (1) There shall be a Technical and Further Education Division of the University consisting of the Board of Technical and Further Education, the Board of Technical Studies and such faculties, schools or other academic units within the Division as are prescribed.
- (2) The composition, constitution, powers and duties of a faculty, school or other academic unit in the Division are as prescribed.

S. 27(1)  
amended by  
No. 70/1997  
s. 71.

**28. *Statutes may prescribe other faculties etc.***

- (1) In addition to the requirements of section 27, there shall be such faculties, schools or other academic units within the University as are prescribed.
- (2) The composition, constitution, powers and duties of a faculty, school or other academic unit are as prescribed.
- (3) The Council shall, appoint a head of each faculty, school or other academic unit.
- (4) The head of a faculty, school or other academic unit has such powers and duties as the Council determines.

S. 28(3)  
amended by  
No. 105/1994  
s. 32.

**29. *Academic Board***

- (1) There shall be an Academic Board for the purposes of academic oversight, including the provision of advice to the Council on the conduct and content of prescribed academic programs and courses of study of higher education of the University.



- (2) The Academic Board shall consist of such number of members as the Statutes prescribe of whom—
- (a) at least two-thirds must be persons elected as prescribed by prescribed classes of staff and students; and
  - (b) at least two-thirds of the elected members must be elected by and from staff enrolled as staff teaching in academic programs and courses of study of higher education in the University; and
  - (c) any other members must be persons appointed by the Council from prescribed classes of persons.

**30. *Chairperson and Deputy Chairperson of Academic Board***

There shall be a chairperson and a deputy chairperson of the Academic Board elected by the Board.

**31. *Powers of Academic Board***

The Academic Board—

- (a) may discuss and submit to the Council an opinion on any matter relating to prescribed higher education programs of the University and, in particular, may make to the Council such recommendations as it thinks proper with respect to instruction, studies, discipline, examinations, assessments, research, degrees and diplomas in those programs of the University; and
  - (b) must report to the Council on all matters submitted to it by the Council for report; and
  - (c) has such other powers and duties as are conferred or imposed upon it by this Act or by the Statutes or regulations; and
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(d) subject to this Act and, except as otherwise prescribed by the Statutes and regulations, may regulate its own proceedings.

**31A. *Resolutions without meetings of the Academic Board***

S. 31A  
inserted by  
No. 70/1995  
s. 52.

- (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 chairperson 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 sub-section (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 sub-section (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.

**31B. *Approved methods of communication for Academic Board meetings***

S. 31B  
inserted by  
No. 70/1995  
s. 52.

- (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 Part, a member of the Academic Board who participates in a meeting held as permitted by sub-section (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.

**32. *Board of Technical and Further Education***

There shall be a Board of Technical and Further Education consisting of the prescribed number of members each of whom is elected or appointed as prescribed by the Statutes.

**33. *Chairperson and Deputy Chairperson of Board***

There shall be a chairperson and deputy chairperson of the Board of Technical and Further Education elected by the Board.

**34. *Powers of Board***

The Board of Technical and Further Education—

- (a) may discuss and submit to the Council an opinion on any matter relating to the prescribed technical and further education programs of the University and, in particular, may make to the Council such recommendations as it thinks proper with respect to planning and funding of technical and further education activities, instruction, studies, discipline, examinations, assessments, research, diplomas, certificates and other awards in those programs of the University;
- (b) must report to the Council on all matters submitted to it by the Council for report;

- (c) has such other powers and duties as are conferred or imposed upon it by this Act or by the Statutes or regulations; and
- (d) subject to this Act and except as otherwise prescribed by the Statutes and regulations, may regulate its own proceedings.

**34A. Resolutions without meetings of the Board of Technical and Further Education**

S. 34A  
inserted by  
No. 70/1995  
s. 53.

- (1) If a majority of the members for the time being of the Board of Technical and Further Education sign a document circulated by, or on behalf of, the chairperson 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 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 sub-section (1), taken to have been passed at a meeting of the Board of Technical and Further Education, each member must be advised as soon as practicable and given a copy of the terms of the resolution.
- (3) For the purposes of sub-section (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.

**34B. Approved methods of communication for Board of Technical and Further Education meetings**

S. 34B  
inserted by  
No. 70/1995  
s. 53.

- (1) If not less than two thirds of the members of the Board of Technical and Further Education for the time being holding office so agree, a meeting of the 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 Part, a member of the Board of Technical and Further Education 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.

S. 34C  
inserted by  
No. 70/1997  
s. 72.

### **34C. Board of Technical Studies**

- (1) There shall be a Board of Technical Studies for the purposes of—
    - (a) academic oversight of prescribed programs and courses of study in technical and further education; and
    - (b) providing advice to the Council and the Board of Technical and Further Education on—
      - (i) the conduct and content of those programs and courses; and
      - (ii) the awarding of certificates and diplomas in technical and further education.
  - (2) The Board of Technical Studies shall consist of the prescribed number of members each of whom is elected or appointed as prescribed.
  - (3) There shall be a chairperson and deputy chairperson of the Board of Technical Studies elected by the Board.
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**PART 4—STATUTES AND REGULATIONS**

**35. *Power of Council to make Statutes***

- (1) Subject to this Act, the Council may make Statutes for or with respect to all matters relating to the organization, management and good government of the University and in particular, without affecting the generality of the foregoing, for or with respect to—
- (a) the organization of the University;
  - (b) the organization of the services which are needed for the proper conduct of the University;
  - (c) staff;
  - (d) enrolled students;
  - (e) the qualifications for entry to the University and the selection and enrolment of students;
  - (f) the discipline of the University;
  - (g) the imposition of fines for or determining compensation payable for damage arising from breaches of the discipline of the University;
  - (h) the examinations or assessments for fellowships, scholarships, prizes, exhibitions, degrees, certificate or other awards, diplomas, and the granting of degrees, including degrees ad eundem statum or honoris causa and the granting of diplomas, certificates or other awards;
  - (i) the recognition, in lieu of or for the purpose of any examination or course of study, of prior learning, including but not limited to

S. 35(1)(i)  
amended by  
No. 70/1995  
s. 54(2).

S. 35(1)(m)  
substituted by  
No. 70/1995  
s. 54(3).

S. 35(1)(ma)  
inserted by  
No. 62/1994  
s. 26.

- any course of study completed or examination passed in any educational institution;
- (j) fees or other charges for enrolment and for any examination, assessment, degree or diploma or any certificate;
  - (k) fees or other charges to be charged for classes and for the use of any facilities of the University;
  - (l) the manner and time of convening of meetings of the Council;
  - (m) the affiliation with the University of any educational, commercial, cultural, sporting or other institution, organisation or body if—
    - (i) the affiliation would assist in attaining any of the objects of the University; and
    - (ii) the governing body of the institution, organisation or body has consented to the affiliation;
  - (ma) the merger with the University of any TAFE college and the making of any savings and transitional provisions consequent on the merger;
  - (n) scholarships, bursaries or prizes provided by the University or otherwise;
  - (o) the provision by the Council of accommodation for students and the management and control of any such accommodation;
  - (p) the arrangement of accommodation for staff and students including the erection or financing of buildings owned by the University or any other person or body;
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- (q) the exercising by agreement with the owner or governing body of any hostel, hall or other accommodation not established by the Council of powers of control and management of and in relation to that hostel, hall or other accommodation;
  - (r) provisions for superannuation, whether by establishing a fund or joining a fund controlled by others;
  - (s) property, buildings and traffic;
  - (t) intellectual property;
  - (u) academic dress;
  - (v) endowments;
  - (w) organizations, amenities and services;
  - (x) generally prescribing or providing for any matter or thing authorised or directed to be prescribed or provided for the purposes of this Act.
- (2) The Council may, by a later Statute, revoke or amend any Statute.
- (3) Any Statute made by the Council may provide for—
- (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 purpose of the Statute;
  - (b) the manner of promulgation of any such regulation;
  - (c) the revocation or amendment of any such regulation.



S. 35(4)(c)  
amended by  
No. 70/1997  
s. 73.

- (4) 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.

S. 35(5)  
amended by  
No. 70/1997  
s. 73.

- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.

**36. *Statutes and regulations affecting courses of study***

- (1) Before a Statute or regulation concerning a degree or diploma or any matter concerning study or research, is made, amended or revoked by the Council, the Council must submit the proposal to the Academic Board or the Board of Technical and Further Education, as appropriate, for its report.

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- (2) If the Council declares a proposed Statute or regulation to which sub-section (1) applies to be urgent, the Council may make the Statute or regulation without complying with sub-section (1).
  - (3) A Statute or regulation made under sub-section (2) ceases to have effect at the expiration of six months after it is made, unless it sooner expires or is revoked.
  - (4) If the Academic Board or Board of Technical and Further Education does not report to the Council within two months (or such longer or shorter period as the Council determines in any particular case) after submission of a proposed Statute or regulation to the Academic Board or Board of Technical and Further Education, the Council may make, amend or revoke the Statute or regulation without the report.
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**PART 5—PROPERTY AND FINANCIAL**

**37. *Application of funds of the University***

(1) All fees and all other money received by or on behalf of the University under this Act or otherwise must be applied by the Council solely for the purposes of the University and, if received for particular purposes of the University, must be applied solely for those purposes.

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

(aaa) borrow money at interest by way of mortgage, bank overdraft or otherwise; or

(aa) without limiting paragraph (aaa), obtain financial accommodation within the meaning of section 3 of the **Borrowing and Investment Powers Act 1987**—

for—

(a) the purpose of carrying out or performing any of its powers, authorities, duties and functions; and

(b) 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.

S. 37(2) amended by Nos 105/1994 s. 33(1)(a)(b) (as amended by No. 70/1995 s. 57(a)), 70/1997 s. 74. S. 37(2)(aa) inserted by No. 105/1994 s. 33(1)(b) (as amended by No. 70/1995 s. 57(b)).

S. 37(2)(a) amended by No. 105/1994 s. 33(1)(d).

S. 37(2)(b) amended by No. 105/1994 s. 33(1)(c)(d).

- (2A) The Council may, with the approval of the Minister and the Treasurer, enter into and perform financial arrangements within the meaning of section 3 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.
- (3) Money of the University may be invested by the Council from time to time in any manner in which money may be invested under the **Trustee Act 1958** or in any other manner of investment authorised by the Council.

S. 37(2A)  
inserted by  
No. 105/1994  
s. 33(2).

S. 37(3)  
amended by  
No. 104/1995  
s. 6(Sch. 1  
item 30(a)).

### **38. Housing**

For the purpose of assisting members of staff to purchase or lease homes for their own use or to build houses or make improvements upon any land upon which they reside or propose to reside, the Council may enter into such contracts or arrangements and execute such guarantees as the Council thinks fit.

### **39. Student Loan Fund**

- (1) The Council may establish a fund to be called the "Student Loan Fund" and may pay into that fund from time to time out of the money of the University such amounts as it thinks fit.
- (2) There shall be paid to the credit of the Student Loan Fund—
- (a) all money received in repayment of loans to students from the fund, together with interest on such loans;
  - (b) all other money received by the Council for the purpose of the fund;
  - (c) such other money of the University as the Council determines.

S. 39(5)  
amended by  
No. 104/1995  
s. 6(Sch. 1  
item 30(b)).

- (3) Out of the Student Loan Fund, loans may be made by the Council, on such terms and conditions as the Council determines to students of the University who are nominated in that behalf by a committee appointed for the purpose by the Council.
- (4) The Student Loan Fund must be administered in accordance with the Statutes and regulations.
- (5) Any money standing to the credit of the Student Loan Fund and not immediately required for loans to students may be invested in any manner in which money may be invested under the **Trustee Act 1958** or in any other manner of investment authorised by the Council and the income arising from the investment must be paid into and form part of the Fund.

**40. *Acquisition of land for or in connection with the University***

- (1) The Minister, after consultation with the Council, may, by agreement or compulsorily, acquire any land for the purposes of or in connection with the University.
  - (2) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—
    - (a) this Act is the special Act; and
    - (b) the Minister is the Authority.
  - (3) Any unalienated Crown land, despite anything to the contrary in the **Land Act 1958**—
    - (a) may be granted in fee simple to the University or to any college, institution or body affiliated or connected with the University for such consideration (if any) and subject to such conditions, limitations and restrictions as the Governor in Council determines; or
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- (b) may be reserved under the **Crown Land (Reserves) Act 1978** either permanently or temporarily as a site for the purposes of the University or any such institution.
- (4) Any land acquired by agreement under this Act by the Minister must be conveyed or transferred to the Crown and, despite anything to the contrary in any Act, may be dealt with as unalienated Crown land.
- (5) 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) despite anything to the contrary in any Act, may be dealt with as unalienated Crown land.
- (6) 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 sub-section (3)(a).
- (7) The Council must not, without the prior approval of the Minister—
- (a) alienate any interest in fee simple of any land owned by the University, other than land referred to in sub-section (3)(a), if the sum of the consideration for the transfer or conveyance of that interest exceeds \$1 500 000 or any other amount that the Minister fixes by instrument published in the Government Gazette; or

S. 40(6)  
inserted by  
No. 70/1997  
s. 75.

S. 40(7)  
inserted by  
No. 70/1997  
s. 75.

S. 40(8)  
inserted by  
No. 70/1997  
s. 75.

(b) grant a lease for a term exceeding 21 years of any land owned by the University other than land referred to in sub-section (3)(a).

(8) Sub-sections (6) and (7) have effect despite any Act or law to the contrary, including any rule of common law.

**41. *Creation and administration of trust and other funds***

S. 41(2)  
amended by  
No. 104/1995  
s. 6(Sch. 1  
item 30(c)).

- (1) The University—
  - (a) may acquire property by gift, grant, bequest or devise; and
  - (b) may agree to and carry out any conditions of any such gift, grant, bequest or devise.
- (2) Subject to this Act, the Council may create and administer any trust fund or funds for any other purpose whatsoever and may invest money standing to the credit of any such fund in any manner in which money may be invested under the **Trustee Act 1958** or in any other manner of investment authorised by the Council.
- (3) The Council may establish one or more investment common funds for the collective investment of any trust and other funds held by or in the custody of the University.
- (4) Subject to sub-section (5), the Council, from time to time without liability for breach of trust, may bring into or withdraw from any investment common fund the whole or any part of any trust fund or other fund, despite any direction to the contrary, whether express or implied, contained in the trust instrument.
- (5) The Council must not bring into any investment common fund the whole or any part of any trust fund if—

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S. 41(5)(a)  
repealed by  
No. 70/1995  
s. 55.

- (b) any of the securities in which the capital of the investment common fund is invested are securities in which the trust fund is not authorised to be invested.
- (6) Subject to sub-section (7), the Council must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation by each fund in the common fund during the relevant accounting period.
- (7) The Council, if it considers it expedient so to do, may from time to time add some portion of the income of a common fund to the capital of the common fund or use some part of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

**42. Formation and membership of companies and joint ventures**

- (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 form or participate in the formation of a limited company the objects of which are objects incidental or conducive to the attainment of any of the objects of the University.
- (2) Without limiting the generality of sub-section (1), the University may, 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, form or participate in the

S. 42(1)  
amended by  
Nos 105/1994  
s. 34(1)(a),  
70/1995  
s. 56(1).

S. 42(2)  
amended by  
Nos 105/1994  
s. 34(2),  
70/1995  
s. 56(2).



formation of a limited company the objects of which include one or more of the following objects—

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

**S. 42(3)**  
**amended by**  
**Nos 105/1994**  
**s. 34(2),**  
**70/1995**  
**s. 56(2).**

- (3) In addition to the powers of the University under sections 37 and 41, the University may, 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, be a member of a limited company the objects of which are incidental or conducive to the attainment of any of the objects of the University.
- (4) The University must not form, participate in the formation of or be a member of, a limited company (other than under the powers of the University under sections 37 and 41) unless—
  - (a) the objects of the limited company are incidental or conducive to the attainment of any of the objects of the University; and

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- (b) the memorandum or articles of association of the limited company provide that—
- (i) the company must not alter the memorandum or articles of association of the limited company unless the Council has by resolution authorised the alteration; and
  - (ii) the company must, 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.

(5) Where—

- (a) the University forms, participates in the formation of or is a member of, a limited company (other than under the powers of the University under sections 37 and 41) the objects of which are incidental or conducive to the attainment of any of the objects of the University; and
- (b) the University has a controlling interest in that company—

the University—

- (ba) must 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 in the interests of the management or conduct of the affairs or concerns of the University; and

**S. 42(5)(ba)**  
**inserted by**  
**No. 105/1994**  
**s. 34(3),**  
**amended by**  
**No. 70/1995**  
**s. 56(3).**

*Victoria University of Technology Act 1990*

*Act No. 21/1990*

s. 42

S. 42(5)(d)  
amended by  
No. 70/1995  
s. 56(4)(a)(b).

(c) must 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

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

S. 42(6)  
amended by  
No. 70/1995  
s. 56(5).

(6) For the purpose of sub-section (5), the University has a controlling interest in a company if the University is, within the meaning of the Corporations Law of Victoria as varied by sub-section (7), a substantial shareholder in that Company.

S. 42(7)  
amended by  
No. 70/1995  
s. 56(5)(6).

(7) For the purposes of determining whether the University is a substantial shareholder in a company, the provisions of the Corporations Law of Victoria apply as if a reference in section 708(5) of the Corporations Law of Victoria to the prescribed percentage were a reference to 50 per centum.

S. 42(8)  
amended by  
No. 93/1997  
s. 28(Sch.  
item 32.1(a)).

(8) Where the University forms, participates in the formation of or is a member of, a limited company to which sub-section (5) applies, the accounts of the limited company must be audited annually by the Auditor-General or a person authorised by the Auditor-General.

S. 42(9)  
amended by  
No. 70/1995  
s. 56(5).

(9) The requirements of sub-section (8) are in addition to the requirements of the Corporations Law of Victoria.

(10) The University must pay to the Consolidated Fund an amount to be determined by the Auditor-

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General to defray the costs and expenses of an audit under this section.

(11) The following provisions apply to the annual audit under sub-section (8)—

- (a) the Auditor-General and each person authorised by the Auditor-General has 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 must within three months after 31 December in each 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 must be prepared in the manner and in the form approved by the Treasurer and must 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;
- (d) the Auditor-General must forward to the Treasurer a copy of the audited annual accounts.

S. 42(11)(a) amended by No. 93/1997 s. 28(Sch. item 32.1(b)).

(12) Without limiting the generality of sub-section (11)(a), the Auditor-General and each person authorised by 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.

S. 42(12) amended by No. 105/1994 s. 36(a), substituted by No. 93/1997 s. 28(Sch. item 32.2).

*Victoria University of Technology Act 1990*  
*Act No. 21/1990*

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S. 42(14)  
amended by  
Nos 105/1994  
s. 34(4)(a)(b),  
70/1995  
s. 56(7).

- (13) Sub-sections (8), (10) and (12) do not apply to a limited company of which the University has ceased to be a member before the last preceding annual audit.
- (14) 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 corporation, other than a limited company, or an association or partnership;
  - (b) form, or participate in the formation of, a corporation, other than a limited company, or an association or partnership; or
  - (c) enter into a joint venture with another person or persons—
- the objects or purposes of which include one or more of the following objects 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;

*Victoria University of Technology Act 1990*  
*Act No. 21/1990*

s. 42

(i) promoting or assisting drama, music, or the visual arts.

(14A) If the University does any of the things referred to in sub-section (14)(a), (b) or (c), the University must, within 30 days after doing so, notify the Minister of the name or description of the corporation, association, partnership or joint venture and the reasons the Council decided the membership, formation or participation or entry into the joint venture was in the interests of the management or conduct of the affairs or concerns of the University.

S. 42(14A) inserted by No. 105/1994 s. 34(5), amended by No. 70/1995 s. 56(8).

(15) In this section, "**limited company**" has the same meaning as in the Corporations Law of Victoria.

S. 42(15) amended by No. 70/1995 s. 56(5).

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Ss 43–45 repealed by No. 31/1994 s. 4(Sch. 2 item 98).

**PART 6—GENERAL**

S. 46  
substituted by  
No. 57/1996  
s. 34.

**46. *Visitor***

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

**47. *Elections***

- (1) Subject to this Act, elections for the purposes of this Act must be conducted in the prescribed manner.
- (2) The Statutes may provide for the method of any election under this Act and for the determination of questions raised in relation to the conduct or result of any such election.

**48. *Fines and payment of compensation***

- (1) A fine imposed upon or compensation payable by a member of the staff of the University or a student under a Statute or regulation is a civil debt recoverable summarily by the University in a court of competent jurisdiction.

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- (2) A certificate in writing signed by the Vice-Chancellor or a person appointed by the Vice-Chancellor for the purpose as to the amount of a fine imposed upon or compensation payable by a member of the staff of the University or a student under a Statute or regulation and giving particulars of the date of, and reasons for the imposition or demand of, the fine or compensation, is evidence of the matters stated in the certificate.
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**PART 7—TRANSITIONAL PROVISIONS**

Ss 49–52  
 repealed by  
 No. 105/1994  
 s. 35(d).

\* \* \* \* \*

**53. *Students of Amalgamating Institutes***

S. 53(2)  
 amended by  
 No. 105/1994  
 s. 35(e).

- (1) On and after the commencement of section 4, a person who is an enrolled student of an Amalgamating Institute is also an enrolled student of the University.
- (2) The Statutes or Regulations may authorise the Council of the University, at the request of a person who is or has been an enrolled student of the University by virtue of sub-section (1), to confer on the student, subject to and in accordance with the Statutes and Regulations, a degree, diploma, certificate or other award under a name that includes the title of the award and the words "Footscray Institute of Technology" or "The Western Institute", as the case requires.
- (3) The powers of the Council of the University extend to the conferring of any degree, diploma, certificate or other award on a person who is an enrolled student of the University by virtue of sub-section (1) that an Amalgamating Institute might have conferred on the person if this Act had not been enacted.
- (4) A person who holds a degree, diploma, certificate or other award of an Amalgamating Institute is entitled on and from the date of commencement of this section to the same benefits and privileges as are enjoyed by a person holding an award of the University, as if the award of the Institute were an award of the University.

**PART 8—APPOINTED DAY**

**54. *Transfer of assets and liabilities of Amalgamating Institutes***

Subject to this Act, on and from the Appointed Day—

- (a) the Footscray Institute of Technology and its Council is dissolved and the University is the successor in law of that Institute and its Council;

\* \* \* \* \*

S. 54(b)  
repealed by  
No. 105/1994  
s. 35(f).

- (c) The Western Institute and its Council is dissolved and the University is the successor in law of that Institute and its Council;
- (d) the assets and rights of each Amalgamating Institute or its Council vest in the University; and
- (e) the liabilities and obligations of each Amalgamating Institute or its Council become liabilities or obligations of the University; and
- (f) any scholarship, prize or bursary of a continuing nature administered by an Amalgamating Institute or its Council and existing immediately before the Appointed Day shall be administered by the University as if it were a scholarship, prize or bursary of the University, but otherwise in accordance with the terms and conditions to which it was subject immediately before the Appointed Day; and

- (g) all contracts, deeds, bonds, agreements, arrangements, guarantees and other instruments (except contracts, agreements or arrangements relating to the members of staff of an Amalgamating Institute) made or entered into by, on behalf of, or in relation to an Amalgamating Institute or its Council and in force immediately before the Appointed Day have effect as if made or entered into by, on behalf of, or in relation to the University; and
- (h) all actions, claims, arbitrations and other proceedings (including proceedings on appeal or review) pending or existing immediately before the Appointed Day by, against, or in relation to an Amalgamating Institute or its Council have effect as if they were proceedings by, against or in relation to the University, and may be continued and completed accordingly; and
- (i) in—
  - (i) an Act other than this Act; or
  - (ii) a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**; or
  - (iii) a judgment or order; or
  - (iv) any document whatever—  
in relation to a period occurring on or after the Appointed Day and unless the contrary intention appears, a reference to—
    - (v) an Amalgamating Institute; or
    - (vi) the Council of an Amalgamating Institute; or

(vii) the Academic Board of an  
Amalgamating Institute—

is deemed to be a reference to the University;  
and

(j) all records and documents of each  
Amalgamating Institute or its Council  
become the property of the University.

**55. Gifts, trusts etc.**

If—

(a) before or after the Appointed Day—

(i) a gift, disposition or trust of property is  
made or declared or is deemed to have  
been made or declared; or

(ii) a trust fund is created—

(whether by deed, will or otherwise) to, in  
favour of, for the use of, or for the purposes  
of, an Amalgamating Institute; and

(b) the gift, trust, disposition or trust fund takes  
effect, or may take effect, or the trust fund  
may be applied, on or after the Appointed  
Day—

the gift, disposition, trust or trust fund does not  
fail only because of the provisions of this Act, but,  
in relation to any matter occurring on or after the  
Appointed Day—

(c) in the case of a gift, disposition or trust of  
property, takes effect as if made or declared  
to or in favour of the University for a  
purpose of the University that corresponds  
with, or is similar to, those purposes of the  
Amalgamating Institute for which it was  
made or declared; or

- (d) in the case of a trust fund, may be applied as if created in favour of the University for a purpose of the University that corresponds with, or is similar to, those purposes of the Amalgamating Institute for which the fund was created.

**56. Land used by an Amalgamating Institute**

S. 56(1)  
amended by  
No. 70/1991  
s. 3(a).

- (1) On the Appointed Day, the land described in Part 1 of the Schedule vests in fee simple in the University subject to—
- (a) the terms, conditions, covenants, limitations, exceptions, reservations and restrictions to which the land was subject immediately before the Appointed Day; and
  - (b) the condition that the University must not—
    - (i) sell, mortgage or otherwise dispose of the land or any part of it; or
    - (ii) use or permit to be used the land or any part of it otherwise than for the purposes of the University—without the approval in writing of the Minister.

S. 56(2)  
repealed by  
No. 70/1991  
s. 3(b).

\* \* \* \* \*

S. 56(3)  
amended by  
No. 70/1991  
s. 3(b).

- (3) The Governor in Council, on behalf of the Crown, may grant to the University the land described in Part 2 of the Schedule for an estate in fee simple subject to—

S. 56(3)(a)  
amended by  
No. 70/1991  
s. 3(c).

- (a) the condition that any land reserved under an Order in Council published in a Government Gazette listed in Part 2 of the Schedule must

- be used for the purpose for which it is reserved; and
- (b) any other terms, conditions, covenants, reservations, exceptions, limitations or restrictions that the Governor in Council determines.
- (4) No compensation is payable by the Crown in respect of anything done under or arising out of this section.

**57. Amendment of Register etc.**

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument, must make any amendments in the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of this Part.

\* \* \* \* \*

S. 57(2)-(5)  
repealed by  
85/1998  
s. 24(Sch item  
63).

**58. Staff of Amalgamating Institutes**

- (1) On the Appointed Day, the members of staff of an Amalgamating Institute cease to be such members and become members of the staff of the University.
- (2) A person who becomes a member of staff of the University under sub-section (1)—
- (a) is entitled to a salary no less than the person was receiving or was entitled to receive immediately before the transfer, and on terms and conditions no less favourable than those of the person's appointment in the Amalgamating Institute; and

- (b) continues to have the benefit of all entitlements accrued in respect of the person's appointment in the Amalgamating Institute before the transfer.
- (3) A person transferred under sub-section (1) who, immediately before the transfer was an officer within the meaning of the **State Superannuation Act 1988**, continues subject to that Act to be an officer within the meaning of that Act, while he or she continues as a member of staff of the University.

#### **59. Regulations of Amalgamating Institutes**

- (1) The regulations of an Amalgamating Institute in force immediately before the commencement of this section, to the extent to which they could be made as Statutes under this Act and are not inconsistent with any Statutes or regulations so made continue to have effect—
  - (a) as if made as regulations under a Statute of the University; and
  - (b) as if a reference to the Institute as a campus were a reference to that campus; and
  - (c) as if any other reference to the Institute were a reference to the University.
- (2) Regulations continued in force under sub-section (1) may be amended or revoked as if they were regulations under this Act and as if this section were the Statute under which they were made.

#### **60. Powers of Amalgamating Institutes**

Despite anything to the contrary in the constitution or Memorandum and Articles of Association of an Amalgamating Institute or its Council or governing body, the Institute, Council or body shall be deemed to have, and always to have had power to do all things it is authorised or

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empowered to do under or for the purposes of this Act or necessary to be done for the purpose of establishing the University in accordance with this Act.

**61. Organizations related to Amalgamating Institute**

On and after the Appointed Day, a reference to an Amalgamating Institute (by whatever name) in the constitution or rules of a student representative council or student union, whether incorporate or unincorporate, related to the Amalgamating Institute, has effect as a reference to the University and, in so far as applicable continues to apply to that part of the University carried on on the campus of the Amalgamating Institute.

**62. Revocation of Orders in Council**

- (1) The Order in Council made on 22 July 1986 constituting the Council of The Western Institute and published in the Government Gazette on 23 July 1986 is revoked.
- (2) The Order in Council made on 31 May 1988 constituting the Council of Footscray Institute of Technology and published in the Government Gazette on 1 June 1988 is revoked.

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Ss 63–66  
repealed by  
No. 105/1994  
s. 35(g).

**67. The Western Institute Foundation Limited and Westsearch Limited**

The Governor in Council, on the recommendation of the Minister, may by Order published in the Government Gazette, amend the memorandum or articles of association of—

- (a) The Western Institute Foundation Limited, a company limited by guarantee; or



(b) Westsearch Limited, a company limited by guarantee.

**68. *Commissioner for Corporate Affairs may amend register***

Where, under this Act, the memorandum or articles of association of a company are amended, the Commissioner for Corporate Affairs or other person having responsibility for the registration of the company may, for the purpose of recording the effect of this Act, amend any particulars of registration or documents in his or her custody.

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**PART 9—TRANSITIONAL**

**69. *First Council appointments for 1998***

- (1) All members of the Council of the Victoria University of Technology, except the Chancellor, the Vice-Chancellor and the Chairperson of the Academic Board are deemed to go out of office at the end of 31 December 1997 but are eligible for re-election or re-appointment as members of the Council or to be 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 7(2)(e) shall be persons appointed by the Minister who, on 31 December 1997, were members of the staff of Victoria University of Technology;
  - (b) the 2 members referred to in section 7(2)(f) shall be persons appointed by the Minister who, on 31 December 1997 were enrolled students of Victoria University of Technology;
  - (c) the 6 members referred to in section 7(2)(i) shall be persons appointed by the members of the Council who were in office before 31 December 1997.
- (3) Of the members appointed by the Minister under sub-section (2)(a)—
  - (a) one must be appointed until 31 December 1998;
  - (b) 2 must be appointed until 31 December 1999.

Part 9  
(Heading and  
ss 69–71)  
repealed by  
No. 105/1994  
s. 36(b). New  
Pt 9 (Heading  
and s. 69)  
inserted by  
No. 70/1997  
s. 76

- (4) The members appointed by the Minister under sub-section (2)(b) must be appointed until 31 December 1998.
  - (5) Of the members appointed by the Council under sub-section (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 7(2)(g) 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.
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**SCHEDULE**

S. 56  
Sch. substituted by  
No. 70/1991  
s. 4.

**Part 1—Folios of the Register**

<i>Volume</i>	<i>Folio</i>
9862	314
9669	424
9632	839
5662	1132316
5916	117
3997	354

**Part 2—Crown Land**

<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Government Gazette</i>	<i>Purpose of reservation</i>
Allotment 5G section 15, Parish of Cut-Paw-Paw, 3.063 ha less excisions by Order in Council 27.2.90	Order in Council 10.6.1941	Government Gazette 11.6.1941, page 2128	Educational purposes
Allotment 5F section 15, Parish of Cut-Paw-Paw, 835 sq. m. less excisions by Order in Council 27.2.90	Order in Council 9.6.1964	Government Gazette 16.6.1965, page 1892	Educational purposes

Sch.

*Victoria University of Technology Act 1990*  
*Act No. 21/1990*

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<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Government Gazette</i>	<i>Purpose of reservation</i>
Allotment 5E, 5H and 5J section 15, Parish of Cut-Paw-Paw, 1.829 ha less excisions by Order in Council 27.2.90	Order in Council 29.11.1988	Government Gazette 7.12.1988, page 3696	Educational purposes

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## NOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 29 March 1990*

*Legislative Council: 15 May 1990*

The long title for the Bill for this Act was "A Bill to establish a university to be known as Victoria University of Technology, to amend the **Post-Secondary Education Act 1978**, the **Teaching Service Act 1981**, the **Vocational Education and Training Act 1990** and for other purposes."

The **Victoria University of Technology Act 1990** was assented to on 30 May 1990 and came into operation as follows:

Sections 1–53, 60, 69(1), 70, 71(1) on 1 July 1990: Government Gazette 24 June 1990 page 1862; sections 55–59, 61, 62, 67, 68, 69(2)(a)(c), 71(2)(b), Schedule on 30 January 1992: Government Gazette 29 January 1992 page 178; section 54 on 1 January 1992: section 2(1); sections 63–66, 69(2)(b)(3), 71(2)(a) never proclaimed and repealed by No. 105/1994.

*Victoria University of Technology Act 1990*  
*Act No. 21/1990*

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## 2. Table of Amendments

This Version incorporates amendments made to the **Victoria Institute of Technology Act 1990** by Acts and subordinate instruments.

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### **Victoria University of Technology (Amendment) Act 1991, No. 70/1991**

*Assent Date:* 26.11.91  
*Commencement Date:* 26.11.91: s. 2  
*Current State:* All of Act in operation

### **Vocational Education and Training (College Employment) Act 1993, No. 14/1993**

*Assent Date:* 11.5.93  
*Commencement Date:* Ss 1, 2 on 11.5.93: s. 2(1); rest of Act on 1.7.93:  
s. 2(2)  
*Current State:* All of Act in operation

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

*Assent Date:* 31.5.94  
*Commencement Date:* S. 4(Sch. 2 item 98) on 1.1.95: Government Gazette  
28.7.94 p. 2055  
*Current State:* This information relates only to the provision/s  
amending the **Victoria University of Technology  
Act 1990**

### **Vocational Education and Training (Amendment) Act 1994, No. 62/1994**

*Assent Date:* 15.6.94  
*Commencement Date:* S. 26 on 1.7.94: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Victoria University of Technology  
Act 1990**

### **University Acts (Amendment) Act 1994, No. 105/1994 (as amended by No. 70/1995)**

*Assent Date:* 13.12.94  
*Commencement Date:* Ss 29, 31, 37, 38 on 31.12.94: s. 2(2); ss 27, 28, 30,  
32–36 on 1.1.95: Government Gazette 22.12.94  
p. 3384  
*Current State:* This information relates only to the provision/s  
amending the **Victoria University of Technology  
Act 1990**

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

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*Victoria University of Technology Act 1990*

*Act No. 21/1990*

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*Assent Date:* 17.10.95  
*Commencement Date:* S. 57 on 13.12.94: s. 2(2); ss 51–56 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 **Victoria University of Technology  
Act 1990**

**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 33, 34 on 10.12.96: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Victoria University of Technology  
Act 1990**

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

*Assent Date:* 18.11.97  
*Commencement Date:* Ss 67–76 on 1.1.98: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Victoria University of Technology  
Act 1990**

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

*Assent Date:* 16.12.97  
*Commencement Date:* S. 28(Sch. item 32) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Victoria University of Technology  
Act 1990**

**Transfer of Land (Single Register) Act 1998, No. 85/1998**

*Assent Date:* 17.11.98  
*Commencement Date:* S. 24(Sch. item 63) on 1.1.99: s. 2(3)  
*Current State:* This information relates only to the provision/s  
amending the **Victoria University of Technology  
Act 1990**

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**3. Explanatory Details**

No entries at date of publication.