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to amend various Acts establishing Victorian universities to make further provision for their governance and operation and for other purposes.

Higher Education Acts (Amendment) Act 2005

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The main purpose of this Act is to amend various Acts establishing Victorian universities to make further provision for their governance and operation.
2. Commencement

(1) Subject to sub-sections (2) and (3), this Act comes into operation on a day or days to be proclaimed.

(2) If a provision of this Act, other than sections 58(2) and (3), 65(2), 66, 68(1) and (2), 72(2) and (3), 79(2), 80, 82(1) and (2), 86(2) and (3), 93, 94, 96(1) and (2), 114(2) and (3), 122(2), 123 and 125, does not come into operation before 31 August 2005, it comes into operation on that day.

(3) If section 58(2) and (3), 65(2), 66, 68(1) and (2), 72(2) and (3), 79(2), 80, 82(1) and (2), 86(2) and (3), 93, 94, 96(1) and (2), 114(2) and (3), 122(2), 123 or 125, do not come into operation before 30 June 2006, the provision comes into operation on that day.
PART 2—DEAKIN UNIVERSITY

3. Definitions

In section 2 of the Deakin University Act 1974—

(a) in the definition of "enrolled student" for "programme of study or course" substitute "course or unit";

(b) in the definition of "post-graduate student" after "for a" insert "graduate certificate, ".

4. Objects of the University

In section 5 of the Deakin University Act 1974—

(a) in paragraphs (b) and (c) for "external studies" substitute "distance education";

(b) in paragraph (d)—

(i) for "programmes" substitute "courses";

(ii) for "courses" substitute "units".

5. New section 6 substituted

For section 6 of the Deakin University Act 1974 substitute—

"6. Council is the governing body of the University

(1) The Council is the governing body of the University and has the entire direction and superintendence of the University.

(2) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Vice Chancellor 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;

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."

6. Composition of Council

(1) For section 7(1B) of the Deakin University Act 1974 substitute—

"(1B) 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;
Higher Education Acts (Amendment) Act 2005

Act No.

Part 2—Deakin University

(b) an appreciation of the values of a University relating to teaching, research, independence and academic freedom;

5 (c) the capacity to recognise the needs of the external community served by the University.

(1BA) Of the persons appointed under sub-sections (1)(f) and (1)(h)—

10 (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."

15 (2) For section 7(2) of the Deakin University Act 1974 substitute—

"(2) 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.

20 (3) 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 sub-section (1)(h)."

7. Term of office

After section 8(1) of the Deakin University Act 1974 insert—

"(1A) Despite sub-section (1)(a)—

30 (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.

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

(1C) Sub-section (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.

8. Council's power of removal

(1) After section 9(1A) of the Deakin University Act 1974 insert—

"(2) 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."
(2A) Without limiting section 14 and this section and the powers of the Governor in Council and the Minister under this section, the Council may remove a member from office in accordance with this section.

(2B) 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.

(2C) 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.”.

(2) In section 14 of the Deakin University Act 1974, omit "or without special leave previously granted by the Council absents himself from all meetings of the Council during four consecutive months”.

9. Vacation of office

For section 9(6) of the Deakin University Act 1974 substitute—

"(6) A member of the Council appointed under section 7(1)(f), (g) or (h) who becomes a member of the staff or a student of the University ceases to be a member of the Council and the vacated office shall be filled in the manner provided for casual vacancies.”.

10. New sections 11 and 12 substituted

For sections 11 and 12 of the Deakin University Act 1974 substitute—

"11. Conduct of elections

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

12. 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—
Part 2—Deakin University

Higher Education Acts (Amendment) Act 2005
Act No.

(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.

11. New section 16 substituted

For section 16 of the Deakin University Act 1974 substitute—

"16. Election or appointment of Chancellor

The members of the Council may appoint or elect as prescribed a person, whether a member of the Council or not, to be the Chancellor of the University for the term and subject to the conditions that are prescribed by the Statutes."

12. Council member's responsibilities

(1) In section 19 of the Deakin University Act 1974—

(a) in sub-section (1), for "Council is" substitute "Council must act in the interests of the University as a whole and is";

(b) in sub-section (2), after "improper use of" insert "his or her position on the Council including the improper use of".
Higher Education Acts (Amendment) Act 2005
Act No.

Part 2—Deakin University

(2) After section 19(2) of the Deakin University Act 1974 insert—

"(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 19A."

(3) In the heading to section 19A of the Deakin University Act 1974, for "Pecuniary" substitute "Declaration of".

(4) In section 19A(1) of the Deakin University Act 1974, for "a pecuniary interest" substitute "an interest".

13. Powers of Council

In section 22 of the Deakin University Act 1974, omit "and shall have the entire direction and superintendence of the affairs concerns and property of the University".

14. Statutes

For section 28(1)(u) of the Deakin University Act 1974 substitute—

"(u) organisations, amenities and services;

(ua) obtaining the opinion of enrolled students about any matter affecting the student body;

(ub) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".
15. Submissions of statutes and regulations to Academic Board

In section 29 of the Deakin University Act 1974—

(a) in sub-section (1), after "to the Academic Board" (where first occurring) insert "for its report";

(b) in sub-section (1), in paragraph (a) of the proviso, after "to the Academic Board" insert "for its report";

(c) in sub-section (1), in paragraph (b) of the proviso, after "to the Board" insert "for its report".

16. Disposal of land

In section 33A(2)(a) of the Deakin University Act 1974, for "$1 500 000" substitute "$3 000 000".

17. Formation of companies

In section 34A of the Deakin University Act 1974—

(a) in sub-section (1) after "objects" (where first and second occurring) insert "or activities";

(b) in sub-section (2) after "objects" (where first and second occurring) insert "or activities";

(c) in sub-sections (3), (4)(a) and (5)(a) after "objects" (where first occurring) insert "or activities";

(d) in sub-section (13A) for "objects" (where twice occurring) substitute "objects, activities".
18. New section 41 inserted

After section 40 of the Deakin University Act 1974 insert—

"41. Transitional—members of Council

(1) Section 8(1B) does not apply to a member of the Council appointed or elected before the commencement of section 7 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.

(2) Section 9(6) as in force after the date of commencement of section 9 of the Higher Education Acts (Amendment) Act 2005 does not apply to a part time member of the staff or a part time student who was a member of the Council immediately before that date with respect to that appointment but does apply to that member in relation to any further appointment to the Council after that date.".
PART 3—LA TROBE UNIVERSITY

19. New section 6 substituted

For section 6 of the La Trobe University Act 1964 substitute—

"6. Council is the governing body of the University

(1) The Council is the governing body of the University and has the entire direction and superintendence of the University.

(2) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Vice Chancellor 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;

(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;
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Part 3—La Trobe University

(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."

20. Composition of Council

(1) For section 7(4) of the La Trobe University Act 1964 substitute—

"(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 sub-sections (1)(f) and (1)(h)—

(a) two must be persons who have experience and interests in the Bendigo region;

(b) one must be a person who has experience and interests in the Albury-Wodonga region;
(c) two must be persons with financial expertise with relevant qualifications and experience in financial management at a senior level;

(d) one must be a person with commercial expertise at a senior level."

(2) After section 7(6) of the La Trobe University Act 1964 insert—

"(7) 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.

(8) 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 sub-section (1)(h)."

21. Term of office

After section 8(1) of the La Trobe University Act 1964 insert—

"(1A) Despite sub-section (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."
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(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 to exceed 12 years of membership (whether consecutive or not).

(1C) Sub-section (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."

22. Council's power of removal

(1) After section 9(3) of the La Trobe University Act 1964 insert—

"(4) 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.

(5) Without limiting section 14 and this section and the powers of the Governor in Council and the Minister under this section, the Council may remove a member from office in accordance with this section.

(6) 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."
(7) 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.".
(2) In section 14 of the La Trobe University Act 1964, omit "or without special leave previously granted by the Council absents himself from four consecutive meetings of the Council".

23. New sections 11 and 12 substituted

For sections 11 and 12 of the La Trobe University Act 1964 substitute—

"11. Conduct of elections

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

12. 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.".
24. New section 16 substituted

For section 16 of the La Trobe University Act 1964 substitute—

"16. Election or appointment of Chancellor

The members of the Council may appoint or elect as prescribed a person, whether a member of the Council or not, to be the Chancellor of the University for the term and subject to the conditions that are prescribed by the Statutes."

25. Council member's responsibilities

(1) In section 19 of the La Trobe University Act 1964—

(a) in sub-section (1), for "Council is" substitute "Council must act in the interests of the University as a whole and is";

(b) in sub-section (2), after "improper use of" insert "his or her position on the Council including the improper use of".

(2) After section 19(2) of the La Trobe University Act 1964 insert—

"(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 19A.".
(3) In the heading to section 19A of the La Trobe University Act 1964, for "Pecuniary" substitute "Declaration of".

(4) In section 19A(1) of the La Trobe University Act 1964, for "a pecuniary interest" substitute "an interest".

26. Powers of Council

In section 22 of the La Trobe University Act 1964, omit "and shall have the entire direction and superintendence of the affairs concerns and property of the University".

27. Statutes

After section 30(1)(v) of the La Trobe University Act 1964 insert—

"(va) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".

28. Disposal of land

In section 36(6)(a) of the La Trobe University Act 1964, for "$1 500 000" substitute "$3 000 000".

29. Formation of companies

In section 37A of the La Trobe University Act 1964—

(a) in sub-section (1) for "objects or" (where first and second occurring) substitute "objects, activities or";

(b) in sub-section (2)(a) after "objects" (where first occurring) insert "or activities";

(c) in sub-section (11A) for "objects" (where twice occurring) substitute "objects, activities".
30. New section 45 inserted

After section 44 of the La Trobe University Act 1964 insert—

"45. Transitional—members of Council

5 Section 8(1B) does not apply to a member of the Council appointed or elected before the commencement of section 21 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.".
PART 4—MELBOURNE UNIVERSITY

31. Council responsibilities

For section 5(1) of the Melbourne University Act 1958 substitute—

"(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;

(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;"
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(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.”.

32. Composition of Council

(1) In section 5(2)(c) of the Melbourne University Act 1958, for "Chairperson" substitute "president".

(2) For section 5(4) of the Melbourne University Act 1958 substitute—

"(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 sub-sections (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.”.

(3) After section 5(5) of the Melbourne University Act 1958 insert—

"(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 sub-section (2)(h).”.

33. Term of office

(1) After section 6(1) of the Melbourne University Act 1958 insert—

"(1A) Despite sub-section (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.

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

(1C) Sub-section (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.

(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) Section 9(b)(v) of the Melbourne University Act 1958 is repealed.

34. New section 6A inserted

After section 6 of the Melbourne University Act 1958 insert—

"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."

35. New sections 7 and 7A substituted

For section 7 of the Melbourne University Act 1958 substitute—

"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.

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.".
36. Election or appointment of Chancellor

In section 11 of the Melbourne University Act 1958—

(a) in sub-section (1), after "elect" insert "or appoint";

(b) sub-sections (2) and (5) are repealed.

37. Council member's responsibilities

(1) In section 13 of the Melbourne University Act 1958—

(a) in sub-section (1), for "council is" substitute "council must act in the interests of the University as a whole and is";

(b) in sub-section (2), after "improper use of" insert "his or her position on the council including the improper use of".

(2) After section 13(2) of the Melbourne University Act 1958 insert—

"(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.".

(3) In the heading to section 13A of the Melbourne University Act 1958, for "Pecuniary" substitute "Declaration of".

(4) In section 13A(1) of the Melbourne University Act 1958, for "a pecuniary interest" substitute "an interest".
38. Staff and management of University

(1) For section 15(1) of the Melbourne University Act 1958 substitute—

"(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."

(2) In section 15(1A) of the Melbourne University Act 1958, for "sub-section (1)" substitute "section 5(1)".

(3) In section 15(3) of the Melbourne University Act 1958—

(a) in paragraph (a) for "two" substitute "one or more";

(b) in paragraph (b) for "each of the pro-vice-chancellors" substitute "a pro-vice-chancellor".

39. References to president of academic board

In the Melbourne University Act 1958—

(a) in sections 15(3)(a) and 30(4) for "chairman" substitute "president";

(b) in section 28A(1) for "chairperson" substitute "president".
40. Statutes and consequential amendment

(1) After section 17(1)(s) of the Melbourne University Act 1958 insert—

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

(2) Section 23(3) of the Melbourne University Act 1958 is repealed.

41. Disposal of land

In section 41B(2)(a) of the Melbourne University Act 1958, for "$1 500 000" substitute "$3 000 000".

42. Formation of companies

In sections 40A(1) and 40B(1) of the Melbourne University Act 1958 after "objects" (where first and second occurring) insert ", activities".

43. New sections 50 and 51 inserted

After section 49 of the Melbourne University Act 1958—

"50. Change of name to president of academic board

(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

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.".
PART 5—MONASH UNIVERSITY

44. Council responsibilities

For section 6 of the Monash University Act 1958 substitute—

"6. Council responsibilities

(1) The Council is the governing body of the University and has the entire direction and superintendence of the University.

(2) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Vice Chancellor 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;

(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;
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(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.

45. Composition of Council

(1) For section 7(4) of the Monash University Act 1958 substitute—

"(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 sub-sections (1)(f) and (1)(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.".
(2) After section 7(5) of the Monash University Act 1958 insert—

"(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 sub-section (1)(h)."

46. Term of office

After section 8(1) of the Monash University Act 1958 insert—

"(1A) Despite sub-section (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.

(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 to exceed 12 years (whether consecutive or not)."
(1C) Sub-section (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.

47. **Automatic vacation of office**

(1) After section 9(4) of the *Monash University Act 1958* insert—

"(5) 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) In section 14 of the *Monash University Act 1958* omit "or absents himself from three consecutive meetings of the Council (being ordinary meetings within the meaning of the statutes) without special leave granted by the Council at or before the last of those meetings,".

48. **New sections 10, 11 and 12 substituted**

For sections 10, 11 and 12 of the *Monash University Act 1958* substitute—

"10. **Council's power of removal**

(1) Without limiting sections 9 and 14 and the powers of the Governor in Council under section 9, 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.

11. Conduct of elections

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

12. 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."

49. Election or appointment of Chancellor

In section 16 of the Monash University Act 1958—

(a) in sub-section (1) after "elect" insert "or appoint";

(b) sub-sections (2) and (3) are repealed.
50. Council member's responsibilities

(1) In section 19 of the Monash University Act 1958—

(a) in sub-section (1), for "Council is" substitute "Council must act in the interests of the University as a whole and is";

(b) in sub-section (2), after "improper use of" insert "his or her position on the Council including the improper use of".

(2) After section 19(2) of the Monash University Act 1958 insert—

"(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 19A.".

(3) In the heading to section 19A of the Monash University Act 1958, for "Pecuniary" substitute "Declaration of".

(4) In section 19A(1) of the Monash University Act 1958, for "a pecuniary interest" substitute "an interest".

51. Staff and management of University

In section 22 of the Monash University Act 1958, omit "and shall have the entire direction and superintendence of the affairs concerns and property of the University.".
52. Membership of academic board

In section 26(1) of the Monash University Act 1958, for "the Chief Librarian, the Director of the Computer Centre at" substitute "the heads of academic support units of".

53. Statutes and consequential amendments

(1) After section 28(1)(n) of the Monash University Act 1958 insert—

"(na) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".

(2) Section 17(3) of the Monash University Act 1958 is repealed.

54. Disposal of land

In section 35AA(2)(a) of the Monash University Act 1958, for "$1 500 000" substitute "$3 000 000".

55. Formation of companies

In section 35B of the Monash University Act 1958—

(a) in sub-section (1) after "objects" (where first and second occurring) insert "or activities";

(b) in sub-section (2) after "objects" (wherever occurring) insert "or activities";

(c) in sub-sections (3), (4)(a) and (5)(a) after "objects" (where first occurring) insert "or activities";

(d) in sub-section (13A) for "objects" (where twice occurring) substitute "objects, activities".
56. Places of living for undergraduate students

Section 39 of the Monash University Act 1958 is repealed.

57. New section 45 inserted

After section 44 of the Monash University Act 1958 insert—

"45. Transitional—members of Council

Section 8(1B) does not apply to a member of the Council appointed or elected immediately before the commencement of section 46 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.".
PART 6—RMIT UNIVERSITY

58. The Council—its composition and responsibilities

(1) After section 7(1) of the Royal Melbourne Institute of Technology Act 1992 insert—

"(1A) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Vice-Chancellor 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;

(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) For section 7(2)(c) and (d) of the Royal Melbourne Institute of Technology Act 1992 substitute—

"(c) two persons elected by the board or boards established under the Statutes to be responsible for academic programs and courses of study in higher education and technical and further education in the University;".

(3) In section 7(3) of the Royal Melbourne Institute of Technology Act 1992, for "the Chairperson of the Academic Board" substitute "one of the persons elected under sub-section (2)(c)".

59. Members of Council

(1) For section 7(4) of the Royal Melbourne Institute of Technology Act 1992 substitute—

"(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 sub-sections (2)(g) and (2)(i)—

(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;

(c) one must be a person who has substantial knowledge or experience of vocational education and training.

(2) For section 7(7) of the Royal Melbourne Institute of Technology Act 1992 substitute—

"(7) 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.

(8) 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 sub-section (2)(i).

(9) Elections of members of the Council are to be conducted in accordance with the requirements of this Act and the Statutes."

60. Term of office

After section 8(1) of the Royal Melbourne Institute of Technology Act 1992 insert—

"(1A) Despite sub-section (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.

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

(1C) Sub-section (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."

61. New section 11 substituted

For section 11 of the Royal Melbourne Institute of Technology Act 1992 substitute—

"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 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
62. Council's power of removal

For section 13(3) and (4) of the Royal Melbourne Institute of Technology Act 1992 substitute—

"(3) 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.

(4) Without limiting section 9 and this section and the powers of the Governor in Council and the Minister under section 9, the Council may remove a member from office in accordance with this section.

(5) 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.

(6) 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."

63. Council member's responsibilities

(1) Insert the following heading to section 16 of the Royal Melbourne Institute of Technology Act 1992—

"Declaration of interests".

(2) In section 16(1) of the Royal Melbourne Institute of Technology Act 1992, for "a pecuniary interest" substitute "an interest".
(3) In section 16A of the *Royal Melbourne Institute of Technology Act 1992*—

(a) in sub-section (1), for "Council is"

\[\text{substitute} \] "Council must act in the interests of the University as a whole and is";

(b) in sub-section (2), after "improper use of"

\[\text{insert} \] "his or her position on the Council including the improper use of".

(4) After section 16A(2) of the *Royal Melbourne Institute of Technology Act 1992* insert—

"(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 16.".

64. Chancellor and Deputy Chancellor

In section 22 of the *Royal Melbourne Institute of Technology Act 1992*—

(a) in sub-sections (1) and (4), after "elect"

\[\text{insert} \] "or appoint";

(b) in sub-sections (3) and (5) after "re-elected"

\[\text{insert} \] "or re-appointed".
65. Staff—dismissal and director of TAFE division

(1) For section 25(2) of the Royal Melbourne Institute of Technology Act 1992 substitute—

"(2) The Council may terminate the employment of any member of staff employed by it.".

(2) In section 25(4) of the Royal Melbourne Institute of Technology Act 1992—

(a) for "the Technical and Further Education Division of the University" (wherever occurring) substitute "any division of the University responsible for Technical and Further Education";

(b) for "in that Division" substitute "in that division".

66. New Part 3 substituted

For Parts 3 and 4 of the Royal Melbourne Institute of Technology Act 1992 substitute—

"PART 3—DIVISIONS, FACULTIES AND BOARDS

27. Divisions and faculties, schools and units

(1) There shall be a Division or Divisions of the University providing for technical and further education and higher education as prescribed by the Statutes.

(2) There shall be such faculties, schools or other academic units within a Division as are prescribed by the Statutes.

(3) The composition, constitution, powers and duties of a faculty, school or other academic unit in a Division are as prescribed.
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.

29. Boards

(1) The Statutes must provide for a board or boards to be responsible for academic programs and courses of study in higher education and technical and further education for the purposes of academic oversight of prescribed academic programs and courses of study of higher education and technical and further education, including the provision of advice to the Council on the conduct and content of prescribed academic programs and courses of study of higher education and technical and further education and the awarding of degrees and diplomas, certificates and other awards.

(2) A board is to consist of the prescribed number of members each of whom is elected or appointed as prescribed by the Statutes.
(3) A board—

(a) may discuss and submit to the Council an opinion on any matter relating to prescribed programs of the University and, in particular, may make to the Council any recommendations that it thinks proper with respect to planning and funding of education activities, instruction, studies, discipline, examinations, assessments, research, degrees, diplomas, certificates and other awards 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

(d) subject to this Act and, except as otherwise prescribed by the Statutes and regulations, may regulate its own proceedings."

67. Statutes

After section 33(1)(k) of the Royal Melbourne Institute of Technology Act 1992 insert—

"(ka) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".
68. Submissions of statutes and regulations to boards

(1) In section 34(1) of the Royal Melbourne Institute of Technology Act 1992—

(a) for "programs or studies referred to in section 28(1) or 32(1)" substitute "programs or courses of study in higher education or technical and further education";

(b) for "the Academic Board or the Board of Technical Studies" substitute "a board established under the Statutes to be responsible for those programs or courses of study".

(2) In section 34(4) of the Royal Melbourne Institute of Technology Act 1992—

(a) for "the Academic Board or Board of Technical Studies" (where first occurring) substitute "a board";

(b) for "the Academic Board or Board of Technical Studies" (where second occurring) substitute "the board".

(3) After section 34(4) of the Royal Melbourne Institute of Technology Act 1992 insert—

"(5) If a proposal adopts without alteration or without substantial alteration a recommendation or report of the board that the proposal was submitted to, the Council is not required to submit the proposal to the board again for a further report.".

69. Disposal of land

In section 37(7) of the Royal Melbourne Institute of Technology Act 1992—

(a) in paragraph (a) for "$1 500 000" substitute "$3 000 000";

(b) in paragraph (b) for "(4)" substitute "(3)".
70. Formation of companies
In section 39 of the Royal Melbourne Institute of Technology Act 1992—
(a) in sub-section (1) after "objects" (where first and second occurring) insert "or activities";
(b) in sub-section (2) after "objects" (wherever occurring) insert "or activities";
(c) in sub-sections (3), (4)(a) and (5)(a) after "objects" (where first occurring) insert "or activities";
(d) in sub-section (14) for "objects" (where twice occurring) substitute "objects, activities".

71. New section 66 inserted
After section 65 of the Royal Melbourne Institute of Technology Act 1992 insert—
"66. Transitional—members of Council
Section 8(1B) does not apply to a member of the Council appointed or elected immediately before the commencement of section 60 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.".
PART 7—SWINBURNE UNIVERSITY OF TECHNOLOGY

72. The Council—its composition and responsibilities

(1) After section 7(1) of the Swinburne University of Technology Act 1992 insert—

"(1A) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Vice Chancellor 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;

(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) For section 7(2)(c) and (d) of the Swinburne University of Technology Act 1992 substitute—

"(c) two persons elected by the board or boards established under the Statutes to be responsible for academic programs and courses of study in higher education and technical and further education in the University;".

(3) In section 7(3) of the Swinburne University of Technology Act 1992, for "the Chairperson of the Academic Board" substitute "one of the persons elected under sub-section (2)(c)".

73. Composition of Council

(1) For section 7(4) of the Swinburne University of Technology Act 1992 substitute—

"(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 sub-sections (2)(g) and (2)(i)—

(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;

(c) one must be a person who has substantial knowledge or experience of vocational education and training;

(d) one must be a person who resides in the Outer Eastern Region of Melbourne.

(2) For section 7(7) of the Swinburne University of Technology Act 1992 substitute—

"(7) 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.

(8) 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 sub-section (2)(i).

(9) Elections of members of the Council are to be conducted in accordance with the requirements of this Act and the Statutes.".
74. Term of office

After section 8(1) of the Swinburne University of Technology Act 1992 insert—

"(1A) Despite sub-section (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.

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

(1C) Sub-section (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.".
75. New section 11 substituted

For section 11 of the **Swinburne University of Technology Act 1992 substitute**—

"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 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.".

76. Council's power of removal

For section 13(3) and (4) of the **Swinburne University of Technology Act 1992 substitute**—

"(3) 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."
(4) Without limiting section 9 and this section and the powers of the Governor in Council and the Minister under section 9, the Council may remove a member from office in accordance with this section.

(5) 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.

(6) 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."

77. Council member's responsibilities

(1) Insert the following heading to section 16 of the Swinburne University of Technology Act 1992—

"Declaration of interests".

(2) In section 16(1) of the Swinburne University of Technology Act 1992, for "a pecuniary interest" substitute "an interest".

(3) In section 16A of the Swinburne University of Technology Act 1992—

(a) in sub-section (1), for "Council is" substitute "Council must act in the interests of the University as a whole and is";

(b) in sub-section (2), after "improper use of" insert "his or her position on the Council including the improper use of".

(4) After section 16A(2) of the Swinburne University of Technology Act 1992 insert—

"(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 16.".
78. Chancellor and Deputy Chancellor

In section 22 of the Swinburne University of Technology Act 1992—

(a) in sub-sections (1) and (4), after "elect" insert "or appoint";
(b) in sub-sections (3) and (5) after "re-elected" insert "or re-appointed".

79. Staff—dismissal and director of TAFE division

(1) For section 25(2) of the Swinburne University of Technology Act 1992 substitute—

"(2) The Council may terminate the employment of any member of staff employed by it.".

(2) In section 25(4) of the Swinburne University of Technology Act 1992—

(a) for "the Technical and Further Education Division of the University" (wherever occurring) substitute "a division of the University responsible for Technical and Further Education";
(b) for "in that Division" substitute "in that division".

80. New Part 3 substituted

For Parts 3 and 4 of the Swinburne University of Technology Act 1992 substitute—

"PART 3—DIVISIONS, FACULTIES AND BOARDS

27. Divisions and faculties, schools and units

(1) There shall be a Division or Divisions of the University providing for technical and further education and higher education as prescribed by the Statutes."
(2) There shall be such faculties, schools or other academic units within a Division as are prescribed by the Statutes.

(3) The composition, constitution, powers and duties of a faculty, school or other academic unit in a Division are as prescribed.

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.

29. Boards

(1) The Statutes must provide for a board or boards to be responsible for academic programs and courses of study in higher education and technical and further education for the purposes of academic oversight of prescribed academic programs and courses of study of higher education and technical and further education, including the provision of advice to the Council on the conduct and content of prescribed academic programs and courses of study of higher education and technical and further education and the awarding of degrees and diplomas, certificates and other awards.
(2) A board is to consist of the prescribed number of members each of whom is elected or appointed as prescribed by the Statutes.

(3) A board—

(a) may discuss and submit to the Council an opinion on any matter relating to prescribed programs of the University and, in particular, may make to the Council any recommendations that it thinks proper with respect to planning and funding of education activities, instruction, studies, discipline, examinations, assessments, research, degrees, diplomas, certificates and other awards 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

(d) subject to this Act and, except as otherwise prescribed by the Statutes and regulations, may regulate its own proceedings."

81. Statutes

After section 37(k) of the Swinburne University of Technology Act 1992 insert—

"(ka) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".
82. Submissions of statutes and regulations to boards

(1) In section 39(1) of the Swinburne University of Technology Act 1992—

(a) for "programs or studies referred to in section 28(1) or 35(1)" substitute "programs or courses of study in higher education or technical and further education";

(b) for "the Academic Board or the Board of Technical Studies" substitute "a board established under the Statutes to be responsible for those programs or courses of study".

(2) In section 39(4) of the Swinburne University of Technology Act 1992—

(a) for "the Academic Board or Board of Technical Studies" (where first occurring) substitute "a board";

(b) for "the Academic Board or Board of Technical Studies" (where second occurring) substitute "the board".

(3) After section 39(4) of the Swinburne University of Technology Act 1992 insert—

"(5) If a proposal adopts without alteration or without substantial alteration a recommendation or report of the board that the proposal was submitted to, the Council is not required to submit the proposal to the board again for a further report."

83. Disposal of land

In section 42(3B)(a) of the Swinburne University of Technology Act 1992, for "$1 500 000" substitute "$3 000 000".


84. Formation of companies

In section 44 of the *Swinburne University of Technology Act 1992*—

(a) in sub-section (1) after "objects" (where first and second occurring) insert "or activities";

(b) in sub-section (2) after "objects" (wherever occurring) insert "or activities";

(c) in sub-sections (3), (4)(a) and (5)(a) after "objects" (where first occurring) insert "or activities";

(d) in sub-section (14) for "objects" (where twice occurring) substitute "objects, activities".

85. New section 70 inserted

After section 69 of the *Swinburne University of Technology Act 1992* insert—

"70. Transitional—members of Council

Section 8(1B) does not apply to a member of the Council appointed immediately before the commencement of section 74 of the *Higher Education Acts (Amendment) Act 2005* with respect to that appointment but does apply to that member in relation to any further appointment to the Council after that date.".
PART 8—UNIVERSITY OF BALLARAT

86. The Council—its composition and responsibilities

(1) After section 7(1) of the **University of Ballarat Act 1993** insert—

5 "(1A) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Vice-Chancellor 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;

(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) For section 7(2)(c) and (d) of the University of Ballarat Act 1993 substitute—

"(c) two persons elected by the board or boards established under the Statutes to be responsible for academic programs and courses of study in higher education and technical and further education in the University;".

(3) In section 7(3) of the University of Ballarat Act 1993, for "the Chair of the Academic Board" substitute "one of the persons elected under sub-section (2)(c)".

87. Composition of Council

(1) For section 7(4) of the University of Ballarat Act 1993 substitute—

"(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."
Higher Education Acts (Amendment) Act 2005
Act No.

Part 8—University of Ballarat

(4A) Of the persons appointed under sub-sections (2)(g) and (2)(i)—

(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;

(c) one must be a person who has substantial knowledge or experience of vocational education and training;

(d) two must be persons who live or work in the Ballarat region;

(e) one must be a person who lives or works in the Wimmera Region.

(2) For section 7(6) of the University of Ballarat Act 1993 substitute—

"(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 sub-section (2)(i).

(8) Elections of members of the Council are to be conducted in accordance with the requirements of this Act and the Statutes.".
88. Term of office

(1) After section 8(1) of the University of Ballarat Act 1993 insert—

"(1A) Despite sub-section (1)—

(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.".

(2) After section 8(6) of the University of Ballarat Act 1993 insert—

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

(8) Sub-section (7) 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.".
89. New section 11 substituted

For section 11 of the University of Ballarat Act 1993 substitute—

"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 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.".

90. Council's power of removal

For section 13(3) and (4) of the University of Ballarat Act 1993 substitute—

"(3) 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."
(4) Without limiting section 9 and this section and the powers of the Governor in Council and the Minister under section 9, the Council may remove a member from office in accordance with this section.

(5) 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.

(6) 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.".

91. Council member's responsibilities

(1) Insert the following heading to section 16 of the University of Ballarat Act 1993—

"Declaration of interests".

(2) In section 16(1) of the University of Ballarat Act 1993, for "a pecuniary interest" substitute "an interest".

(3) In section 16A of the University of Ballarat Act 1993—

(a) in sub-section (1), for "Council is" substitute "Council must act in the interests of the University as a whole and is";

(b) in sub-section (2), after "improper use of" insert "his or her position on the Council including the improper use of".

(4) After section 16A(2) of the University of Ballarat Act 1993 insert—

"(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 16.".
92. Chancellor and Deputy Chancellor

In section 22 of the University of Ballarat Act 1993—

(a) in sub-sections (1) and (4), after "elect" insert "or appoint";

(b) in sub-sections (3) and (5) after "re-elected" insert "or re-appointed".

93. Director of TAFE division

In section 25(4) of the University of Ballarat Act 1993—

(a) for "the Technical and Further Education Division of the University" (wherever occurring) substitute "a division of the University responsible for Technical and Further Education";

(b) for "in that Division" substitute "in that division".

94. New Part 3 substituted

For Parts 3 and 3A of the University of Ballarat Act 1993 substitute—

"PART 3—DIVISIONS, FACULTIES AND BOARDS

27. Divisions and faculties, schools and units

(1) There shall be a Division or Divisions of the University providing for technical and further education and higher education as prescribed by the Statutes.

(2) There shall be such faculties, schools or other academic units within a Division as are prescribed by the Statutes.
(3) The composition, constitution, powers and duties of a faculty, school or other academic unit in a Division are as prescribed.

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.

29. Boards

(1) The Statutes must provide for a board or boards to be responsible for academic programs and courses of study in higher education and technical and further education for the purposes of academic oversight of prescribed academic programs and courses of study of higher education and technical and further education, including the provision of advice to the Council on the conduct and content of prescribed academic programs and courses of study of higher education and technical and further education and the awarding of degrees and diplomas, certificates and other awards.

(2) A board is to consist of the prescribed number of members each of whom is elected or appointed as prescribed by the Statutes.
(3) A board—

(a) may discuss and submit to the Council an opinion on any matter relating to prescribed programs of the University and, in particular, may make to the Council any recommendations that it thinks proper with respect to planning and funding of education activities, instruction, studies, discipline, examinations, assessments, research, degrees, diplomas, certificates and other awards 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

(d) subject to this Act and, except as otherwise prescribed by the Statutes and regulations, may regulate its own proceedings."

95. Statutes

After section 30(k) of the University of Ballarat Act 1993 insert—

"(ka) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".
96. Submissions of statutes and regulations to boards

(1) In section 32(1) of the University of Ballarat Act 1993, for "the Academic Board" substitute "a board established under the Statutes to be responsible for academic programs and courses of study in higher education".

(2) In section 32(4) of the University of Ballarat Act 1993—

(a) for "the Academic Board" (where first occurring) substitute "a board";

(b) for "the Academic Board" (where second occurring) substitute "the board".

(3) After section 32(4) of the University of Ballarat Act 1993 insert—

"(5) If a proposal adopts without alteration or without substantial alteration a recommendation or report of the board that the proposal was submitted to, the Council is not required to submit the proposal to the board again for a further report.".

97. Disposal of land

In section 35(7)(a) of the University of Ballarat Act 1993, for "$1 500 000" substitute "$3 000 000".

98. Formation of companies

In section 37 of the University of Ballarat Act 1993—

(a) in sub-section (1) after "objects" (where first and second occurring) insert "or activities";

(b) in sub-section (2) after "objects" (wherever occurring) insert "or activities";
Higher Education Acts (Amendment) Act 2005

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Part 8—University of Ballarat

(c) in sub-sections (3), (4)(a) and (5)(a) after "objects" (where first occurring) insert "or activities";

(d) in sub-section (14) for "objects" (where twice occurring) substitute "objects, activities".

99. New section 73 inserted

After section 72 of the University of Ballarat Act 1993 insert—

"73. Transitional—members of Council

Section 8(7) does not apply to a member of the Council appointed or elected immediately before the commencement of section 88 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.".
PART 9—VICTORIAN COLLEGE OF THE ARTS

100. The Council—its composition and responsibilities

For section 3(3) of the Victorian College of the Arts Act 1981 substitute—

"(3) The Council is the governing body of the College and has the entire direction and superintendence of the College subject to this Act.

(4) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Director of the College as chief executive officer of the College;

(b) approving the mission and strategic direction of the College and its annual budget and business plan;

(c) overseeing and reviewing the management of the College and its performance;

(d) establishing policy and procedural principles for the operation of the College consistent with legal requirements and community expectations;

(e) approving and monitoring systems of control and accountability of the College, including those required to maintain a general overview of any entity controlled by the College in accordance with section 50AA of the Corporations Act;
(f) overseeing and monitoring the assessment and management of risk across the College, including commercial undertakings;

(g) overseeing and monitoring the academic activities of the College, subject to the powers and functions of the University in respect of award courses;

(h) approving any significant commercial activities of the College.".

101. Composition of Council

For section 7(3) of the *Victorian College of the Arts Act 1981* substitute—

"(3) The Governor in Council, the Ministers 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 College relating to teaching, research, independence and academic freedom;

(c) the capacity to recognise the needs of the external community served by the College.

(3A) Of the persons appointed under sub-sections (1)(i) and (1)(j)—

(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.
(3B) At least 10 members of the Council must be persons who are neither enrolled as a student nor employed as a member of staff of the College.

(3C) 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 sub-section (1)(j).

102. Term of office

After section 8(1) of the Victorian College of the Arts Act 1981 insert—

"(1A) Despite sub-section (1)(c)—

(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.

(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 to exceed 12 years of membership (whether consecutive or not)."
(1C) Sub-section (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."

103. Council's power of removal

After section 9(5) of the Victorian College of the Arts Act 1981 insert—

"(6) Without limiting section 12 and this section and the powers of the Governor in Council and the Ministers under this section, the Council may remove a member from office in accordance with this section.

(7) 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.

(8) 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."

104. Automatic vacancies

(1) For section 12(g) of the Victorian College of the Arts Act 1981 substitute—

"(g) the member has failed to attend, without the Council's prior approval, three consecutive ordinary meetings of the Council;

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

(2) At the end of section 12 of the Victorian College of the Arts Act 1981 insert—

"(2) 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.".

105. President and Deputy President

In sections 14 and 15 of the Victorian College of the Arts Act 1981—

(a) in sub-section (1), after "elect" insert "or appoint";

(b) sub-section (2) is repealed.

106. Council member's responsibilities

(1) Insert the following heading to section 17 of the Victorian College of the Arts Act 1981—

"Declaration of interests".

(2) In section 17(1) of the Victorian College of the Arts Act 1981, for "a pecuniary interest" substitute "an interest".

(3) In section 17A of the Victorian College of the Arts Act 1981—

(a) in sub-section (1), for "Council is" substitute "Council must act in the interests of the College as a whole and is";

(b) in sub-section (2), after "improper use of" insert "his or her position on the Council including the improper use of".
(4) After section 17A(2) of the Victorian College of the Arts Act 1981 insert—

"(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 College;

(b) exercise appropriate care and diligence;

(c) take reasonable steps to avoid all conflicts of interest unless they are disclosed in accordance with section 17.".

107. Powers of Council

In section 20 of the Victorian College of the Arts Act 1981, omit "and shall have the entire management and superintendence of the affairs concerns and property of the College".

108. Statutes and consequential amendment

(1) After section 27(1)(r) of the Victorian College of the Arts Act 1981 insert—

"(ra) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".

(2) Section 10(2) of the Victorian College of the Arts Act 1981 is repealed.

109. Disposal of land

In section 33A(2)(a) of the Victorian College of the Arts Act 1981, for "$1 500 000" substitute "$3 000 000".
110. New section 41 inserted

After section 40 of the Victorian College of the Arts Act 1981 insert—

"41. Transitional—members of Council

Section 8(1B) does not apply to a member of the Council appointed or elected immediately before the commencement of section 102 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.".
PART 10—VICTORIA UNIVERSITY

111. Amended purpose

In section 1 of the *Victoria University of Technology Act 1990*, after "Victoria University of Technology" insert "(now known as Victoria University)".

112. Definition

In section 3 of the *Victoria University of Technology Act 1990*, in the definition of "University" after "this Act" insert "(and now renamed and to be known as Victoria University)".

113. University renamed

In section 4(1) of the *Victoria University of Technology Act 1990*, after '"Victoria University of Technology"' insert 'and now renamed and to be known as "Victoria University"'.

114. The Council—its composition and responsibilities

(1) After section 7(1) of the *Victoria University of Technology Act 1990* insert—

"(1A) The primary responsibilities of the Council include—

(a) appointing and monitoring the performance of the Vice Chancellor as chief executive officer of the University;

(b) approving the mission and strategic direction of the University and its annual budget and business plan;"

See:
Act No. 21/1990.
Reprint No. 3 as at 1 August 2003.
LawToday: www.dms.dpc.vic.gov.au
(c) overseeing and reviewing the management of the University and its performance;

(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) For section 7(2)(c) and (d) of the Victoria University of Technology Act 1990 substitute—

"(c) two persons elected by the board or boards established under the Statutes to be responsible for academic programs and courses of study in higher education and technical and further education in the University;".

(3) In section 7(3) of the Victoria University of Technology Act 1990, for "the Chairperson of the Academic Board" substitute "one of the persons elected under sub-section (2)(c)"."
115. Composition of Council

(1) For section 7(4) of the Victoria University of Technology Act 1990 substitute—

"(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 sub-sections (2)(g) and (2)(i)—

(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;

(c) one must be a person who has substantial knowledge or experience of vocational education and training;

(d) three must be persons who live in or about the Western Metropolitan Region of Melbourne.".
s. 116

(2) For section 7(6) of the *Victoria University of Technology Act 1990* substitute—

"(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 sub-section (2)(i)."

116. Term of office

After section 8(1) of the *Victoria University of Technology Act 1990* insert—

"(1A) Despite sub-section (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.

(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 to exceed 12 years of membership (whether consecutive or not)."
(1C) Sub-section (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.

117. New sections 11 and 11A substituted

For section 11 of the Victoria University of Technology Act 1990 substitute—

"11. Conduct of elections

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

11A. 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.".
118. Council's power of removal

For section 13(3) and (4) of the Victoria University of Technology Act 1990 substitute—

"(3) 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.

(4) Without limiting section 9 and the powers of the Governor in Council and the Minister under section 9, the Council may remove a member from office in accordance with this section.

(5) 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.

(6) 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."

119. Council member's responsibilities

(1) Insert the following heading to section 16 of the Victoria University of Technology Act 1990—"Declaration of interests".

(2) In section 16(1) of the Victoria University of Technology Act 1990, for "a pecuniary interest" substitute "an interest".

(3) In section 16A of the Victoria University of Technology Act 1990—

(a) in sub-section (1), for "Council is" substitute "Council must act in the interests of the University as a whole and is";
(b) in sub-section (2), after "improper use of" insert "his or her position on the Council including the improper use of".

(4) After section 16A(2) of the Victoria University of Technology Act 1990 insert—

"(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 16.".

120. Chancellor and Deputy Chancellor

In section 22 of the Victoria University of Technology Act 1990—

(a) in sub-sections (1) and (4), after "elect" insert "or appoint";

(b) in sub-sections (3) and (5) after "re-elected" insert "or re-appointed".

121. Vice Chancellor

In section 23 of the Victoria University of Technology Act 1990 after "Vice-Chancellor" (wherever occurring) insert "and President".
122. Staff—dismissal and director of TAFE division

(1) For section 25(2) of the Victoria University of Technology Act 1990 substitute—

"(2) The Council may terminate the employment of any member of staff employed by it.".

(2) In section 25(4) of the Victoria University of Technology Act 1990—

(a) for "the Technical and Further Education Division of the University" (wherever occurring) substitute "a division of the University responsible for Technical and Further Education";

(b) for "in that Division" substitute "in that division".

123. New Part 3 substituted

For Part 3 of the Victoria University of Technology Act 1990 substitute—

"PART 3—DIVISIONS, FACULTIES AND BOARDS

27. Divisions and faculties, schools and units

(1) There shall be a Division or Divisions of the University providing for technical and further education and higher education as prescribed by the Statutes.

(2) There shall be such faculties, schools or other academic units within a Division as are prescribed by the Statutes.

(3) The composition, constitution, powers and duties of a faculty, school or other academic unit in a Division are as prescribed."
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.

29. Boards

(1) The Statutes must provide for a board or boards to be responsible for academic programs and courses of study in higher education and technical and further education for the purposes of academic oversight of prescribed academic programs and courses of study of higher education and technical and further education, including the provision of advice to the Council on the conduct and content of prescribed academic programs and courses of study of higher education and technical and further education and the awarding of degrees and diplomas, certificates and other awards.

(2) A board is to consist of the prescribed number of members each of whom is elected or appointed as prescribed by the Statutes.
(3) A board—

(a) may discuss and submit to the Council an opinion on any matter relating to prescribed programs of the University and, in particular, may make to the Council any recommendations that it thinks proper with respect to planning and funding of education activities, instruction, studies, discipline, examinations, assessments, research, degrees, diplomas, certificates and other awards 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

(d) subject to this Act and, except as otherwise prescribed by the Statutes and regulations, may regulate its own proceedings."

124. Statutes

After section 35(1)(k) of the Victoria University of Technology Act 1990 insert—

"(ka) elections conducted by or on behalf of the Council including voting by post, electronic voting and preferential voting;".
125. Submissions of statutes and regulations to boards

(1) In section 36(1) of the Victoria University of Technology Act 1990, for "the Academic Board or the Board of Technical and Further Education" substitute "a board established under the Statutes to be responsible for academic programs and courses of study in higher education or to be responsible for programs and courses of study in technical and further education".

(2) In section 36(4) of the Victoria University of Technology Act 1990—

(a) for "the Academic Board or Board of Technical and Further Education" (where first occurring) substitute "a board";

(b) for "the Academic Board or Board of Technical and Further Education" (where second occurring) substitute "the board".

126. Disposal of land

In section 40(7)(a) of the Victoria University of Technology Act 1990, for "$1 500 000" substitute "$3 000 000".

127. Formation of companies

In section 42 of the Victoria University of Technology Act 1990—

(a) in sub-section (1) after "objects" (where first and second occurring) insert "or activities";

(b) in sub-section (2) after "objects" (wherever occurring) insert "or activities";

(c) in sub-sections (3), (4)(a) and (5)(a) after "objects" (where first occurring) insert "or activities";

(d) in sub-section (14) for "objects" (where twice occurring) substitute "objects, activities".
128. New Part 6A inserted

After section 48 of the Victoria University of Technology Act 1990 insert—

"PART 6A—UNIVERSITY RENAMED AND TRANSITIONALS"

49. Change of University's name

(1) On and from the commencement of this section—

(a) the name of the University established and incorporated under this Act as Victoria University of Technology is to be "Victoria University";

(b) in an Act, a subordinate instrument within the meaning of the Interpretation of Legislation Act 1984, the Statutes or regulations of the University or any other document a reference to the University by its old name is, in relation to the period commencing on that date of commencement, to be taken to be a reference to the University by its new name, unless inconsistent with the context or subject matter.

(2) The University continues to be the same body after as before its change of name and no act, matter or thing is affected by that change.

50. Transitional—members of Council

Section 8(1B) does not apply to a member of the Council appointed or elected immediately before the commencement of section 116 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.

51. Change of name to Vice-Chancellor and
President

(1) The office of Vice-Chancellor and the title of
the person holding that office, whether
described as Vice-Chancellor or Vice-
Chancellor and President is to be called the
Vice-Chancellor and President.

(2) The office of Vice-Chancellor and President
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.”.

129. Consequential amendments

(1) In Schedule 2 to the State Employees
Retirement Benefits Act 1979, for "Victoria
University of Technology" substitute "Victoria
University".

(2) In Schedule 2 to the State Superannuation Act
1988, for "Victoria University of Technology"
substitute "Victoria University".

(3) In Schedule 1 to the Tertiary Education Act
1993, for "Victoria University of Technology"
substitute "Victoria University".

(4) In the Vocational Education and Training Act
1990, in section 3, in the definition of "university
with a TAFE division" for "Victoria University of
Technology" substitute "Victoria University".