

LEGISLATIVE ASSEMBLY

Read 1° 25 November 1981

(Brought from the Legislative Council)

A BILL

for

An Act to amend the *Melbourne University Act 1958*
and for other purposes.

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

1. (1) This Act may be cited as the *Melbourne University* Short title.
(*Amendment*) Act 1981.

(2) Subject to section 3 (2), the several provisions of this Act
shall come into operation on a day or on the respective days to
10 be fixed by a proclamation or successive proclamations of the
Governor in Council published in the *Government Gazette*.

(3) In this Act the *Melbourne University Act 1958* is referred to
as the Principal Act.

Principal Act
No. 6405.
Reprinted to
No. 9123.
Subsequently
amended by
Nos. 9212 and
9427.

2. (1) Section 3 of the Principal Act is amended as follows: Interpretation.
15 (a) After the expression "3." there is inserted the expression
"(1)";

- (b) For the definition of "Graduate student" there is substituted the following definition:
 "Graduate student" means a person (not being an undergraduate student) who has matriculated and who is for the time being enrolled as a student at the University in a course or part of a course leading to a master's degree or a doctor's degree or to a diploma which the Council has designated pursuant to sub-section (2) (b) as a post-graduate diploma.;
- (c) For the definition of "Head of an affiliated college" there is substituted the following definition:
 "Head of an affiliated college" means the person who is the Warden of Trinity College, the Master of Ormond College, the Master of Queens' College, the Rector of Newman College, the Principal of University College, the Principal of St. Hilda's College, the Principal of Whitley College, the Principal of Janet Clarke Hall, the Principal of Ridley College or the Principal of St. Mary's College, respectively, or the person who holds under whatever designation the office corresponding to any of the foregoing offices; and (in the case of any other residential college hereafter affiliated to or connected with the University pursuant to section 18) means the person whom the governing body of that college designates for the purposes of this Act as the head thereof.;
- (d) After the definition of "Professor emeritus" there is inserted the following definition:
 "Student" means a graduate student, an undergraduate student or a person designated as a student pursuant to sub-section (2) (c).;
- (e) For the definition of "Undergraduate" there is substituted the following definition:
 "Undergraduate student" means a person who has matriculated and who is for the time being enrolled as a student at the University in a course or part of a course—
 (a) leading to a bachelor's degree or to a diploma which the Council has designated pursuant to sub-section (2) (b) as an undergraduate diploma; or
 (b) prescribed by or under the statutes or regulations as preliminary to a course for a master's degree or a doctor's degree.;

(f) For

(f) For the last paragraph of section 3 there is substituted the following sub-section:

“(2) The Council may from time to time—

- (a) determine what persons or classes of persons constitute the academic staff of the University for the purposes of this Act;
- (b) designate a diploma which may be awarded to students as a post-graduate diploma or an undergraduate diploma for the purposes of this Act;
- (c) designate persons or classes of persons who are neither graduate students nor undergraduate students as students for the purposes of this Act; and
- (d) designate as members of the University persons or classes of persons who are members of the staffs of residential colleges affiliated to or connected with the University under section 18.”.

(2) In section 7 (2), 7 (3) and 7A (1), (2) and (3) of the Principal Act, for the word “undergraduate” (wherever occurring) there are substituted the words “undergraduate students”.

3. (1) Section 4 of the Principal Act is amended as follows: The University.

- (a) In sub-section (1) for the expression “the name of the University of Melbourne” there is substituted the expression “the name of “The University of Melbourne””;
- (b) In sub-section (1)—
 - (i) the word “and” appearing after paragraph (h) is repealed; and
 - (ii) after paragraph (i) the following word and paragraphs are inserted:
 - “and
 - (j) Such members of the staffs of the affiliated colleges as are designated from time to time by the Council as members of the University; and
 - (k) Such students (if any) as are neither graduate students nor undergraduate students.”;
- (c) In sub-section (3), for the expression “paragraphs (a) to (i)” there is substituted the expression “paragraphs (a) to (k)”;

(d) After

- (d) After sub-section (4) there are inserted the following sub-sections:

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

(6) The proviso to sub-section (2) shall not apply to any lands, tenements or hereditaments which in the opinion of the vice-chancellor and principal were acquired for investment purposes.”. 10

- (2) The amendment made by paragraph (a) of sub-section (1) shall be deemed to have been made on 15 January 1975.

Constitution
of Council.

4. Section 5 of the Principal Act is amended as follows:

(a) In the opening words of sub-section (1), for the expression “thirty-eight” there is substituted the expression “39” and for the expression “thirty-nine” there is substituted the expression “40”; 15

(b) For paragraph (e) of sub-section (1) there is substituted the following paragraph:

“(e) Two members, who shall be undergraduate students of or above the age of 18 years and neither of whom shall be a member of the staff of the University, shall be elected by the undergraduate students;” and 20

(c) In paragraph (f) of sub-section (1), for the words “a deputy vice-chancellor” there are substituted the words “two deputy vice-chancellors”. 25

Appointment
of certain
Council
members.

5. The Principal Act is amended as follows:

(a) For paragraph (e) of the proviso to section 6 there are substituted the following paragraphs: 30

“(e) members appointed by co-option (other than members so appointed as heads of affiliated colleges), whenever appointed, shall retire on the date next after their appointment on which members appointed by the Governor in Council retire by effluxion of time; and 35

(f) as to members appointed by co-option as heads of affiliated colleges—

(i) such members, whenever appointed, shall retire on the date next after their appointment on which members appointed by the Governor in Council retire by effluxion of time; 40

(ii) such

(ii) such members shall, subject to sub-paragraph (iii), be appointed so far as is practicable in rotation amongst the heads of affiliated colleges; and

(iii) such a member, if appointed to fill a casual vacancy less than 18 months before the term of the member replaced was due to expire, may be re-appointed at the expiration of the term of the member replaced for a further term of 4 years.”;

(b) After section 6 there is inserted the following section:

“6A. (1) Notwithstanding anything to the contrary in this Act, the term of office of any person who is, at the commencement of the *Melbourne University (Amendment) Act 1981*, an elected or appointed member of the Council shall be extended to 31 December next following the date on which the person’s term of office would have expired but for the enactment of this section.

Terms of office to expire on 31 December.

(2) A term of office extended by sub-section (1) shall, for the purposes of this Part, count as a term of no longer than four years or, in the case of a person elected to the Council by undergraduate students or graduate students, no longer than two years.”; and

(c) In section 10 (4) the expression “(save as is expressly provided with respect to members appointed by co-option as being heads of affiliated colleges)” is repealed.

6. For section 9 of the Principal Act there is substituted the following section:

“9. If a member of the Council—

(a) not being a member elected by graduate students or undergraduate students, ceases to hold any qualification required for his becoming or being a member of the Council; or

Vacation of office of member of Council.

(b) not being a member *ex officio*—

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

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

(iii) becomes bankrupt or insolvent;

(iv) is convicted of an indictable offence;

(v) without special leave previously granted by the Council absents himself from all meetings of the Council during a period of six consecutive months;

or

(vi) is

(vi) is removed from office—
his office shall become vacant.”.

Questions—how
decided by
Council.

7. Section 14 of the Principal Act is amended as follows:

(a) In sub-section (1), for the words “All questions” there
are substituted the words “Subject to any statute made 5
under sub-section (4), all questions”; and

(b) After sub-section (3) there are inserted the following
sub-sections:

“(4) The Council may by statute provide that certain
resolutions, or resolutions of certain classes, shall have 10
effect only if passed by a specified majority of members
or of members present and voting.

(5) Subject to this Act and the statutes and
regulations, the Council may regulate its own 15
proceedings.”.

8. (1) Section 15 of the Principal Act is amended as follows:

(a) After sub-section (1) there is inserted the following
sub-section:

Repertory
company.

“(1A) Without limiting the generality of sub-section
(1), the Council shall have, and shall be deemed always 20
to have had, power to establish and conduct the repertory
company known, at the commencement of this
sub-section, as The Melbourne Theatre Company and
previously known as the Union Theatre Repertory 25
Company.”; and

(b) For paragraph (b) of sub-section (2) there are substituted
the following paragraphs:

Vice-Chancellor
and principal.

“(b) Subject to this Act, the vice-chancellor and
principal shall be the chief executive officer of the 30
University and shall as such have such powers and duties
as are conferred or imposed upon him by statutes or
regulations of the University.

(ba) Unless otherwise expressly provided by the
statutes or regulations, the vice-chancellor and principal 35
may delegate any of his powers and duties to any
person or persons.

(bb) Every delegation under paragraph (ba) may
be revoked by the vice-chancellor and principal and
shall not prevent the exercise or performance by the 40
vice-chancellor and principal of any of his powers and
duties.

(bc) If a person is appointed pursuant to the statutes
of the University as an acting vice-chancellor and
principal during the absence or ill-health of the

vice-chancellor

vice-chancellor and principal or otherwise, the person so appointed shall, during the period of his appointment, have all the powers and duties of the vice-chancellor and principal and shall be a member of the Council *ex officio* in place of the vice-chancellor and principal.

(*bd*) If a person appointed as acting vice-chancellor and principal is already a member of the Council, then his place thereon shall not be vacated and proviso (*d*) to section 6 shall not apply.”.

10 (2) At the commencement of proviso (*d*) to section 6 there are inserted the words “Subject to section 15 (2) (*bd*)”.

(3) For paragraph (*a*) of section 15 (3) there is substituted the following paragraph:

15 “(*a*) Without limiting the generality of sub-section (1), the Council may annually appoint two pro-vice-chancellors, one of whom shall be the person who, at the date of the appointment, is chairman of the academic board.”.

9. In section 16 (1) of the Principal Act, after the words “such committees as it thinks fit” there is inserted the expression “(at least one-third of the members of any such committee being members of the Council)”.

Committees and delegation of powers.

10. After section 16 of the Principal Act there is inserted the following section:

25 “16A. The University shall indemnify and keep indemnified each member of the Council or of a committee constituted by resolution of the Council or by or under a statute or regulation against all actions suits claims and demands whatsoever (whether arising during or after the term of office of that member) in respect of any act or thing done or omitted to be done by that member in good faith in the exercise or purported exercise of any power or duty conferred or imposed upon the Council or committee or upon any member or members thereof by or under this Act.”.

Indemnity of Council members and others.

11. In section 17 of the Principal Act, for sub-sections (1) and (2) there is substituted the following sub-section:

Statutes and regulations.

35 “(1) The Council shall, subject to this Act, have and be deemed always to have had full power to make and alter any statutes and regulations with respect to any matter whatsoever pertaining to the University and, in particular and without prejudice to the generality of the foregoing, with respect to—

40 (a) the organization, management and good government of the University;

(b) employment of staff;

(c) retired staff members and their dependants;

(d) discipline;

- (d) discipline;
- (e) academic dress;
- (f) the common seal;
- (g) copyrights and patents;
- (h) public examinations; 5
- (i) students;
- (j) courses of study;
- (k) credit in courses of the University for work done elsewhere;
- (l) academic awards; 10
- (m) fees charged by the University;
- (n) endowments;
- (o) organizations, amenities and services which are not of an academic nature;
- (p) property, buildings and traffic; 15
- (q) any other matter in relation to which the Council may by virtue of another provision of this Act make statutes or regulations.”.

Licensing of residential premises.

12. In section 18 (1) of the Principal Act, for the word “boarding-houses” (where twice occurring) there is substituted the word “premises”. 20

13. Section 23 of the Principal Act is amended as follows:

Graduate committee.

(a) For sub-section (4) there are substituted the following sub-sections:

“(4) The Council may from time to time in accordance with the statutes of the University determine— 25

- (a) the number of members of the graduate committee to be elected;
- (b) how the several classes of graduates are to be represented thereon, whether separately or by grouping together two or more classes; and 30
- (c) the number of members to be elected as representing each class or group of classes of graduates. 35

(4A) Any determination under sub-section (4) as to the number of members of the graduate committee to be elected as representing each class or group of classes of graduates shall be such as to ensure, so far as is practicable, that the members of each such class or group of classes whose names appear on the postal roll kept 40

pursuant

pursuant to the statutes of the University are proportionately represented on the graduate committee.”;

- 5 (b) In paragraph (b) of the proviso to section 23 (10), for the words “three consecutive meeting thereof” there are substituted the words “all meetings thereof held during a period of six consecutive months”; and
- 10 (c) In paragraph (c) of the proviso to section 23 (10), the expression “(at a meeting to be convened by the president)” is repealed.

14. In section 26 of the Principal Act, for the word “graduates” where occurring in sub-sections (1) and (3), there are substituted the words “the graduates”.

Questions, how decided by graduate committee.

- 15 15. In section 27 of the Principal Act, for the word “convocation” there are substituted the words “the graduates of the University”, and for the words “standing committee” there are substituted the words “graduate committee”.

Validation of proceedings of graduate committee notwithstanding vacancy or disqualification.

16. For section 32A of the Principal Act there is substituted the following section:

- 20 32A. (1) Subject to sub-section (2), the investment of moneys of the University not at the time required for expenditure shall be authorized from time to time by the Council, and the Council may authorize the investment of such funds in any form of investment whatsoever.

Investment.

- 25 (2) Any endowment funds held by the University in accordance with specific trusts as to the payment of the income thereof in perpetuity may be invested for the time being in the investments authorized by the *Trustee Act* 1958 or, unless the investment is expressly prohibited by the instrument creating the trust, in any of the following investments:

- 30 (a) Leasehold property;
- 35 (b) Securities of a body corporate formed or incorporated in a State or Territory of Australia or of any foreign company within the meaning of the *Companies Act* 1961 that is registered in a State or Territory of Australia or of any recognized company within the meaning of that Act.

- (3) In sub-section (2) “securities” includes—
- 40 (a) stocks and shares; and
- (b) any debenture, debenture stock, bond, note or other security.’

17. For

Investigations
at request of
Minister.

17. For section 33 there is substituted the following section:

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

University
Students
Loan Fund.

18. Section 36 of the Principal Act is amended as follows: 10

- (a) In sub-section (2) (c), the words “, subject to the consent of the Minister,” are repealed;
- (b) In sub-section (3), for the words “a committee appointed for the purpose by the Council” there shall be substituted the words “the Council or an officer of the University appointed for the purpose by the Council”;
- (c) Sub-section (3A) is repealed;
- (d) In sub-section (4), the words “in manner approved by the Governor in Council and” are repealed;
- (e) In sub-section (5), for the words “may be invested in Victorian Government securities and securities of the Commonwealth of Australia” there shall be substituted the words “may be invested in any manner whatsoever approved by the Council”;
- (f) Sub-section (6) is repealed; and
- (g) In sub-section (7), for the words “Consolidated Revenue” there shall be substituted the words “Consolidated Fund”.

Establishment
of investment
pools.

19. In section 38 of the Principal Act, for sub-section (3) there is substituted the following sub-section:

“(3) The power of the Council to bring into an investment pool the whole or any part of a trust fund may be exercised notwithstanding any direction to the contrary, whether express or implied, contained in the trust instrument.”

Balance and
statement of
accounts

20. In section 41 (3) (c), after the words “that day and” there are inserted the words “shall as soon as is practicable thereafter cause”.

Fine to be
civil debt
recoverable
summarily.

21. For section 44 there is substituted the following section:

“44. (1) A fine imposed upon a member of the staff of the University or a student pursuant to the statutes and regulations shall be a civil debt recoverable summarily by the University in any court of competent jurisdiction.

(2) A certificate

(2) A certificate in writing signed by the vice-chancellor and principal or a person appointed by him for the purpose as to the amount of a fine imposed upon a member of the staff of the University or a student pursuant to the statutes and regulations, and giving particulars of the date of and reasons for the imposition of the fine, shall be *prima facie* evidence of the facts stated therein in all courts and before all persons acting judicially.”.

