

LA TROBE UNIVERSITY

EXPLANATORY MEMORANDUM FOR THE COUNCIL STATUTE 2009

In general

Council is invited to make the Statute entitled the **Council Statute 2009** (“the new Statute”).

The new Statute is intended to replace Statute 5 – The Council, Statute 27 – Council Elections, Regulation 5.1 – Meetings of the Council and Regulation 27.1 – Election of Members of the Council – Procedure (“the old legislation”).

Notes on significant clauses

Section 3 contains rules regarding the procedure of the Council. At present, the procedure of the Council is dealt with at length in Statute 5. There is no legal need for a legislative instrument to set out the procedure of the Council in any great detail. Accordingly, section 3(1) of the new Statute provides that, subject to the rest of section 3, the Council will be free to regulate its own procedure.

Section 4 of the new Statute deals with the role and duties of the Council Secretary.

Because of certain provisions of the La Trobe University Act 1964, especially section 11, it is more appropriate for the election of Council members to be dealt with in a statute rather than a regulation (presently, the election of Council members is dealt with in Regulation 27.1). For this reason, Part 3 of the of the new Statute deals with the election of members of the Council.

Part 3 of the new Statute is divided into 4 Divisions. Division 1 deals with the election of staff members to Council. Division 2 deals with the election of student members to Council. Division 3 contains provisions that apply to elections under Divisions 1 and 2, such as the Returning Officer, the nominations process, the method used for conducting elections and voting paper. Division 4 deals with voting and the counting of votes. Significantly, Division 4 provides that elections will be conducted in accordance with the principles of first-past-the-post voting (see section 22).



LA TROBE UNIVERSITY

COUNCIL STATUTE 2009

The Council of La Trobe University makes this Statute under section 30 of the *La Trobe University Act 1964*.

PART 1—PRELIMINARY

1. Name and commencement

- (1) This Statute is the **Council Statute 2009**.
- (2) This Statute comes into full force and effect on 1 July 2009.

2. Interpretation

In this Statute—

postgraduate student means a student who is a candidate for a graduate diploma, master's degree, doctorate or any other postgraduate course admission to which normally requires the successful completion of a bachelor's degree;

Secretary, to the Council, means the Deputy Vice-Chancellor (Academic);

undergraduate student means a student who is not a postgraduate student;

voting paper means a voting paper for use in an election conducted under this Statute and, in relation to an election conducted electronically, includes an electronic equivalent of a voting paper for use in the computer program used to conduct the election.

PART 2—PROCEDURE AND ADMINISTRATION

3. Procedure of the Council

- (1) Subject to the Act and this section, the Council may regulate its own procedure.
- (2) If a question arising at a meeting of the Council is whether a Vice-Chancellor is to be appointed or dismissed, the question must be decided by at least two-thirds of the members present.
- (3) The Council must meet—
 - (a) at least once a month; or
 - (b) at such other times as are determined by the Council.

Note:

Sections 18, 19A, 20, 20A and 20B of the Act also deal with the procedure of the Council.

4. Secretary to the Council

- (1) The Secretary must carry out the administrative work associated with the conduct of the Council's business.
 - (2) The Secretary may delegate any of his or her powers, duties or functions under this Statute or the regulations to any officer of the University, other than this power of delegation.
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PART 3—ELECTION OF MEMBERS OF THE COUNCIL

Division 1—Election of staff members

5. Prescribed staff

- (1) For the purposes of section 7(1)(d) of the Act, the following staff of the University are prescribed—
 - (a) a member of the academic staff who is a professor;
 - (b) a member of the academic staff who is not a professor;
 - (c) a member of the staff who is not a member of the academic staff.

Note:

Section 7(1)(d) of the Act provides that 3 members of the Council are to be elected by and from the staff of the University prescribed by the Statutes.

- (2) This section is subject to section 7.

6. Entitlement to participate in election of staff members

- (1) Only a member of the academic staff is entitled to stand as a candidate, nominate a candidate or vote in an election to which section 5(a) or (b) applies.
- (2) Only a member of staff who is not a member of the academic staff is entitled to stand as a candidate, nominate a candidate or vote in an election to which section 5(c) applies.

7. Nominations

- (1) A nomination of a person to be a candidate in an election of staff members must—
 - (a) be made in writing by at least 2 voters entitled to vote in the election;
 - (b) contain the written consent of the person being nominated; and
 - (c) contain details of the positions held by the nominators.
- (2) Despite anything elsewhere in this Statute, the following persons may not be nominated for or elected to a position on the Council under this Division—
 - (a) a Pro Vice-Chancellor;
 - (b) a Dean of a Faculty;
 - (c) a head of a campus;
 - (d) the Deputy Vice-Chancellor (Academic);

- (e) the Chief Financial Officer;
- (f) a divisional manager or director.

Division 2—Election of student members

8. Prescribed students

- (1) For the purposes of section 7(1)(e) of the Act, the following enrolled students of the University are prescribed—
 - (a) an undergraduate student;
 - (b) a postgraduate student.

Note:

Section 7(1)(e) of the Act provides that 2 members of the Council are to be elected by and from the students enrolled at the University prescribed by the Statutes.

- (2) This section is subject to section 10.

9. Entitlement to participate in election of student members

- (1) Only an undergraduate student is entitled to stand as a candidate, nominate a candidate or vote in an election to which section 8(a) applies.
- (2) Only a postgraduate student is entitled to stand as a candidate, nominate a candidate or vote in an election to which section 8(b) applies.

10. Nominations

- (1) A nomination of a person to be a candidate in an election of student members must—
 - (a) in the case of a candidate who is an undergraduate student, be made in writing by at least 20 voters entitled to vote in the election;
 - (b) in the case of a candidate who is a postgraduate student, be made in writing by at least 5 voters entitled to vote in the election;
 - (c) contain the written consent of the person being nominated; and
 - (d) contain the names and student numbers of the nominators.
- (2) Despite anything elsewhere in this Statute, the following persons may not be nominated for or elected to a position on the Council under this Division—
 - (a) a member of the Parliament of Victoria;
 - (b) a full-time member of the staff of the University.

Division 3—General electoral provisions

11. Returning Officer

- (1) If an election is to be held under this Statute, the Deputy Vice-Chancellor (Academic) must nominate a person to act as the Returning Officer for the election.
- (2) The Returning Officer may appoint a person to act as a scrutineer for the election.

12. Returning Officer to call for nominations

- (1) The Returning Officer must post a notice on official notice boards of the University calling for nominations of candidates.
- (2) A notice under subsection (1) must specify a date for the closure of nominations, being a date at least 14 days after the date the notice is posted.
- (3) A Returning Officer must ensure that a copy of the notice referred to in this section is distributed to each person entitled to vote in the election to which the notice relates.

13. Sufficiency of nominations

- (1) If the number of candidates nominated in respect of a particular category of vacancies in an election is equal to the number of those vacancies, the candidates nominated must be declared to be elected by the Returning Officer.
- (2) If the number of candidates nominated in respect of a particular category of vacancies in an election is less than the number of those vacancies—
 - (a) the candidates nominated must be declared by the Returning Officer to be elected; and
 - (b) the Returning Officer must call for further nominations in respect of the remaining vacancies by posting and distributing a notice in accordance with section 12.
- (3) If no candidates are nominated in respect of a particular category of vacancies in an election, the Returning Officer must again call for nominations for that category by posting and distributing a notice in accordance with section 12.
- (4) In this section, a *category of vacancies* means staff member vacancies or student member vacancies.

14. Returning Officer to notify date etc of election

- (1) Within 7 days after the closing date for the receipt of nominations specified by a Returning Officer under section 12(2), if the number of candidates is greater than the number of vacancies, the relevant Returning Officer must—
 - (a) fix the date on which the election is to be held; and
 - (b) display on an official notice board of the University a notice setting out—
 - (i) the nature, date and times of the election;
 - (ii) the names of the nominated candidates; and
 - (iv) the category of vacancy to which each nominated candidate is seeking election.
- (2) The date fixed under subsection (1) for an election must be a date that is at least 7 days from the date the notice referred to in subsection (1)(b) is posted.

15. Method for conduct of election

The Returning Officer may conduct an election by—

- (a) postal ballot;
- (b) electronic ballot; or
- (c) the personal attendance of the voters entitled to vote in the election at a polling booth or polling booths designated by the Returning Officer.

16. Format of voting papers

- (1) A voting paper used in an election conducted under this Part must be in the form approved by the Returning Officer.
- (2) The order in which the names of the candidates in an election are to be set out on a voting paper for that election is to be determined by the relevant Returning Officer by the drawing of lots.

17. Lost or destroyed voting papers

- (1) If a voting paper issued to a voter is lost or destroyed, the voter may apply in writing to the Returning Officer for a replacement voting paper.
- (2) If satisfied that the voting paper has been lost or destroyed, the Returning Officer may issue a replacement voting paper to the voter.
- (3) Nothing in this section applies in respect of an election conducted electronically.

18. Declaration forms and envelopes

- (1) Each voting paper issued to a voter must be accompanied by—
 - (a) a declaration form which—
 - (i) states the date and times of the election to which it relates; and
 - (ii) makes provision for the full name and signature of the voter and particulars of the voter’s entitlement to vote in the election; and
 - (b) an envelope marked “Voting Paper”; and
 - (c) another envelope addressed to the Returning Officer.
- (2) A voter is not entitled to vote in an election if he or she does not complete the declaration form referred to in subsection (1).
- (3) Subsection (2) does not apply in respect of an election conducted electronically.
- (4) In relation to an election conducted electronically, the electronic equivalent of a voting paper for use in the election must be accompanied by an electronic equivalent of the declaration form referred to in subsection (1)(a).
- (5) A voter is not entitled to vote in an election conducted electronically if he or she does not complete the declaration form referred to in subsection (4) at the time of voting.

Division 4—Voting

19. Method of voting

- (1) A voting paper is to be completed by placing an “X” in the box opposite the name of 1 candidate.
- (3) After completing his or her voting paper in an election that is not conducted electronically, a voter must lodge or post the voting paper and declaration form in accordance with the instructions accompanying the voting paper.
- (4) After completing his or her voting paper in an election that is conducted electronically, a voter must lodge the voting paper and declaration form in accordance with the computer program used to conduct that election.

20. Counting of votes

- (1) In an election to which this Statute applies, the votes are to be counted in accordance with the principles of first-past-the-post voting.
- (2) A Returning Officer must reject a voting paper used in an election if—
 - (a) it is not accompanied by a properly completed declaration form; or
 - (b) it does not contain the figure “X” in the box opposite the name of one candidate.

21. Candidates not to vote

Despite any other provision of this Statute, a person who is standing as a candidate in an election to which this Statute applies is not entitled to vote in that election.

PART 4—GENERAL

22. Regulations

- (1) The Council may make regulations—
 - (a) for or with respect to or providing for any matter or thing for the purposes of this Statute; and
 - (b) amending or revoking any regulations made under this Statute.
- (2) The Council must ensure that regulations made under this Statute are promulgated by having the regulations displayed on an official notice board of the University for a period of at least 14 days.
- (3) For the purposes of determining when regulations made under this Statute come into full force and effect within the meaning of section 30(4) of the Act, the regulations are taken to have been promulgated in accordance with sub-section (2) at the start of the first day on which they are displayed on an official notice board of the University.

23. Revocation of earlier University legislation

The following Statutes and regulations are **revoked**—

- (a) Statute 5 – The Council;
- (b) Statute 27 – Council Elections;
- (c) Regulation 5.1 – Meetings of the Council;
- (d) Regulation 27.1 – Election of members of the Council – Procedure.

Approved by the Council—

Approved by the Minister—