

LA TROBE UNIVERSITY

**EXPLANATORY MEMORANDUM FOR THE DEGREES, DIPLOMAS AND
OTHER AWARDS STATUTE 2009**

Council is invited to make the attached Degrees, Diplomas and Other Awards Statute 2009 (the new Statute).

The new Statute is intended to replace Statute 21 – Degrees Diplomas and Other Awards and all of the regulations made under that Statute (there are currently 12 different regulations made under Statute 21).

Statute 21 and its regulations are highly detailed and prescriptive. They deal with everything from conditions of admission to courses, the requirements for completion of courses, the conduct of examinations and the assessment of work, the supervision of higher degrees by research and the specification of each and every course offered by the University.

An unfortunate consequence of this over-prescription is that, over time, the practice of the University at the level of the Faculties and Schools diverges significantly from what is set out in Statute 21 and its regulations. To the extent that there is such a divergence, the legality of the conduct of the University becomes questionable. Examples of this divergence include the following—

- Sections 10 to 15 of Regulation 21.12 lay down a very complex procedure for the assessment of work by various committees of examiners. In at least one Faculty, this procedure is followed in part only. To the extent that any particular examination procedure does not comply with Regulation 21.12, the procedure is arguably invalid and susceptible to legal challenge.
- Section 1 of Statute 21 provides that “[t]he degrees diplomas and other awards specified respectively in the regulations made under this statute may be conferred, awarded or granted by the University”. Legally, therefore, a degree, diploma or other award must be specified in a regulation made under Statute 21 for the University to have the power to confer or grant it. Theoretically, all of the degrees, diplomas and other awards offered by the University are listed in schedules to the various regulations made under Statute 21. In practice, however, many new degrees, diplomas and other awards have been offered which are never included in those schedules. Arguably, the University does not have the power to confer or grant those degrees, diplomas or other awards.

In terms of the *La Trobe University Act 1964* (the Act), much of what is presently dealt with in Statute 21 and its regulations need not be. The legal problems identified above are problems which the University has made for itself. For example, section 23(1) of the Act gives the Council the power to confer any degree or grant any diploma or other award on a student of the University after examination. This is a very broad power but it is legally sufficient to enable the University to determine what degrees, diplomas or other awards it will offer to students and to confer or grant those

degrees, diplomas or other awards after due examination. However, since section 23(1) is expressed to be “subject to the Statutes and regulations”, any Statutes or regulations that deal with the conferral of degrees or the granting of diplomas or other awards will take precedence over the broad power that we have under section 23(1). In other words, the University is bound by Statute 21 and its regulations and is, to a large extent, failing to comply with them. However, this need not be the case.

The only matters relating to degrees, diplomas or other awards for which the University must legislate if it is to do them are the following—

- allowing the Academic Board, rather than the Council, to confer a degree or grant a diploma or other award (section 23(1) of the Act);
- the admission without examination to any degree, diploma or other award of any person who has graduated at another University (section 23(2)(a) of the Act);
- the admission *honoris causa* to any degree, diploma or other award (section 23(2)(b) of the Act);
- the revocation of any degree, diploma or other award conferred or granted by the University (section 23(5) of the Act).

Accordingly, there is no need for the University to have legislation dealing with such things as admissions, examinations, assessment, the supervision of research students, disputes regarding grades or the specification of degrees, diplomas and other awards offered by the University. All of these are matters which may be dealt with by way of documented policies and procedures developed and administered at the level of the Academic Board or, if the Academic Board so decides, at the level of the various Faculty Boards and the International College.

For these reasons, the new Statute is very brief (at just 6 pages), and deals only with the following matters—

- the conferral of degrees and the granting of diplomas and other awards by the Academic Board (section 3);
- admission to honorary degrees (section 4);
- admission to degrees, diplomas and other awards in absentia or posthumously (section 5);
- the revocation of degrees, diplomas and other awards (sections 6 to 9);
- refusing to give a student an academic transcript if the student has any outstanding financial obligations to the University (section 10).



LA TROBE UNIVERSITY

DEGREES, DIPLOMAS AND OTHER AWARDS STATUTE 2009

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

1. Name and commencement

- (1) This Statute is the **Degrees, Diplomas and Other Awards Statute 2009**.
- (2) This Statute comes into full force and effect on 1 July 2009.

2. Interpretation

In this Statute—

Committee of Inquiry means a Committee of Inquiry appointed under section 8;

Degree includes an honorary degree;

senior officer means a senior member of the academic or general staff.

3. Conferral of degrees etc.

- (1) For the purposes of section 23(1) of the Act, the Academic Board may after examination confer a degree on or grant a diploma or other award to a student of the University.
- (2) The Academic Board may refuse to confer a degree on or grant a diploma or other award to a student of the University if the Academic Board is satisfied that the student has not discharged all of his or her financial obligations to the University.

4. Admission to honorary degrees

The Academic Board may confer an honorary degree on a person if the Academic Board has determined that it is appropriate to do so in recognition of the person's eminence or original and distinguished contribution to one or more branches of learning.

5. Academic Board may confer degree or grant diploma or other award in absentia or posthumously

If the Academic Board considers it appropriate to do so, the Academic

Board may confer a degree on or grant a diploma or other award to a person in absentia or posthumously.

6. Senior officer to investigate report that a degree, diploma or other award improperly obtained or that honorary degree should be revoked

- (1) If a person has information which he or she believes demonstrates that—
 - (a) a degree, diploma or other award has been improperly obtained; or
 - (b) an honorary degree should be revoked—

the person may report that information to senior officer.

- (2) A senior officer who receives a report referred to in sub-section (1) must investigate the report and in doing so may interview the person who made it.
- (3) A senior officer who conducts an investigation under this section must report the results of his or her investigation to the Vice-Chancellor.

7. Vice-Chancellor to refer cases to a Committee of Inquiry

If the Vice-Chancellor considers that the results of an investigation under section 6 show that there are sufficient grounds for—

- (a) suspecting that a degree, diploma or other award has been improperly obtained; or
 - (b) revoking an honorary degree—
- the Vice-Chancellor must—
- (c) request the Academic Board to appoint a Committee of Inquiry in accordance with this Part; and
 - (d) refer the matter to that Committee for further investigation.

8. Establishment and procedure of a Committee of Inquiry

- (1) If requested to do so by the Vice-Chancellor, the Academic Board must appoint a Committee of Inquiry.
- (2) A Committee of Inquiry must consist of 3 members appointed by the Academic Board, but may not include the senior officer who provided the relevant report to the Vice-Chancellor under section 6 nor any member of the academic staff who supervised or assessed any work of the person whose degree, diploma or other award is the subject of that

report.

- (3) A Committee of Inquiry must investigate any matter referred to it by the Vice-Chancellor under this section and give a written report of its investigation to the Academic Board.
- (4) A written report by a Committee of Inquiry under sub-section (3)—
 - (a) must include details of the evidence considered by the Committee in the course of its investigation; and
 - (b) may include recommendations as to whether the Academic Board should—
 - (i) revoke a degree, diploma or other award which it considers was improperly obtained; or
 - (ii) revoke an honorary degree which it considers should be revoked.
- (5) In conducting an investigation under this Part, a Committee of Inquiry—
 - (a) is bound by the rules of natural justice;
 - (b) is not bound by the rules of evidence or practices or procedures applicable to courts of record;
 - (c) may inform itself on any matter as it sees fit; and
 - (d) subject to the requirements of this section, may regulate its own procedure.

9. Academic Board may revoke degree, diploma or other award or honorary degree

- (1) After considering a report from a Committee of Inquiry, the Academic Board may—
 - (a) find that the degree, diploma or other award to which the report relates was improperly obtained and revoke the degree, diploma or other award; or
 - (b) find that the honorary degree to which the report relates should be revoked and revoke the honorary degree.
- (2) The Academic Board must give written notice of the revocation to the person who holds the degree, diploma or other award or the honorary degree.
- (3) A revocation takes effect from the date specified in the written notice.

- (4) If a member of the Academic Board was also a member of a Committee of Inquiry appointed by the Academic Board under section 8, that member shall not be entitled to participate in any deliberations, or vote on any resolution, of the Academic Board on any matter arising from the written report of that Committee.

10. Academic transcripts

A student is not entitled to a transcript of his or her academic record if, at the time of applying for the transcript, he or she has not—

- (a) discharged any current financial obligation to the University; or
- (b) complied with any prescribed requirements.

11. Transitional

- (1) Despite the coming into full force and effect of this Statute, the Old Statute continues to apply to a relevant procedure under the Old Statute which, immediately before the commencement day, had commenced but had not been completed.

- (2) In this section—

commencement day means the day on which this Statute comes into full force and effect;

Old Statute means Statute 21 – Degrees Diplomas and Other Awards, and any regulations made under that Statute, as in force immediately before the commencement day;

relevant procedure includes the following—

- (a) an application for enrolment or re-enrolment in a course;
- (b) an application for credit or standing;
- (c) an application for the alteration, withdrawal from or deferral of enrolment;
- (d) the examination or assessment of a student's work;
- (e) an application for the conferral of a degree or the granting of a diploma or other award;
- (f) proceedings relating to the revocation of a degree, diploma or other award;
- (g) a complaint relating to the assessment or grading of a student's work;

- (h) an application for special consideration or a supplementary examination.

12. Regulations

- (1) The Academic Board may make regulations—
 - (a) any matter or thing for the purposes of this Statute;
 - (b) amending or revoking any regulations made under this Statute.
- (2) The Academic Board 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.

13. Revocation of earlier University legislation

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

- (a) Statute 21 – Degrees Diplomas and Other Awards;
- (b) Regulation 21.1 – Higher Doctorates;
- (c) Regulation 21.2 – Doctor of Philosophy and Other Doctoral Degrees;
- (d) Regulation 21.3 – Professional Doctorates;
- (e) Regulation 21.4 – Masters Degree by Coursework;
- (f) Regulation 21.5 – Masters Degree by Research;
- (g) Regulation 21.6 – Graduate and Postgraduate Diplomas;
- (h) Regulation 21.7 – Graduate and Postgraduate Certificates;
- (i) Regulation 21.8 – Bachelor Degrees;
- (j) Regulation 21.10 – Diplomas and Advanced Diplomas;
- (k) Regulation 21.11 – Higher Degrees Committee (Research);
- (l) Regulation 21.12 – Examinations and Assessment;

- (m) Regulation 21.13 – Conferring of Degrees Diplomas and Other Awards.

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Approved by the Council—

Approved by the Minister—