

# Monash University (Chisholm and Gippsland) Bill

No.

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By Authority Jean Gordon Government Printer Melbourne



# LEGISLATIVE ASSEMBLY

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Read 1° 12 April 1990

*(Brought in by Ms Kirner and Mr Kennan)*

## A BILL

to provide for the merger of the Chisholm Institute of Technology and the Gippsland Institute of Advanced Education with Monash University, to amend the *Monash University Act 1958* and for other purposes.

### **Monash University (Chisholm and Gippsland) Act 1990**

The Parliament of Victoria enacts as follows:

#### PART I—PRELIMINARY

##### **Purposes**

1. The purposes of this Act are—
  - 5 (a) to provide for the merger of the Chisholm Institute of Technology and the Gippsland Institute of Advanced Education with Monash University; and
  - 10 (b) to enable Monash University to constitute by Statute an institution to be known as the Monash University College Gippsland in place of the former Gippsland Institute of Advanced Education; and
  - (c) to make various amendments to the *Monash University Act 1958*.

**Commencement**

2. (1) Parts 1 and 4 come into operation on the day on which this Act receives the Royal Assent.

(2) Parts 2 and 3, except section 18, come into operation on 1 July 1990. 5

(3) Section 18 comes into operation on 1 July 1991.

**Definitions**

3. In this Act—

“**Appointed Day**” means 1 July 1990.

“**Chisholm**” means the Chisholm Institute of Technology. 10

“**Gippsland**” means the Gippsland Institute of Advanced Education.

“**Merging Institute**” means—

(a) Chisholm;

(b) Gippsland. 15

“**Monash**” means Monash University.

**PART 2—MERGER****Transfer of Chisholm and Gippsland assets and liabilities**

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

(a) each Merging Institute and its Council is dissolved and Monash is the successor in law of the Merging Institute and its Council; and 20

(b) the assets and rights of each Merging Institute or its Council vest in Monash; and

(c) the liabilities and obligations of each Merging Institute or its Council become liabilities or obligations of Monash; and 25

(d) any scholarship, prize or bursary of a continuing nature administered by a Merging Institute or its Council and existing immediately before the Appointed Day shall be administered by Monash as if it were a scholarship, prize or bursary of Monash, but otherwise in accordance with the terms and conditions to which it was subject immediately before the Appointed Day; and 30

(e) all contracts, deeds, bonds, agreements, arrangements, guarantees and other instruments (except contracts, agreements or arrangements relating to the members of staff of a Merging Institute) made or entered into by, on behalf of, or in relation to a Merging Institute or its Council and in force immediately before the Appointed Day have effect as if made or entered into by, on behalf of, or in relation, to Monash; and 35 40

5 (f) all actions, claims, arbitrations, applications and other proceedings (including proceedings on appeal or review) pending or existing immediately before the Appointed Day by, against, or in relation to a Merging Institute or its Council have effect as if they were proceedings by, against, or in relation to Monash, and may be continued and completed accordingly; and

10 (g) any permit, licence or authority of any kind whatsoever issued or granted to a Merging Institute or its Council by or under any Act continues to operate, despite anything in this Act, in favour of Monash in the same way and to the same extent as it operated in favour of the Merging Institute or its Council; and

15 (h) unless the contrary intention appears, a reference to a Merging Institute or to the Council of a Merging Institute is deemed to be a reference to Monash if the reference—

20 (i) is in an Act, other than this Act, a subordinate instrument within the meaning of the *Interpretation of Legislation Act* 1984, a judgment or order or any other document whatever; and

(ii) is in relation to a period occurring on or after the Appointed Day; and

(i) all records and documents of each Merging Institute or its Council become the property of Monash.

25 **Gifts, trusts etc.**

5. If—

(a) before or after the Appointed Day—

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

(ii) a trust fund is created—

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

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

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

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

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

**Transitional Council Membership**

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6. (1) On the Appointed Day, despite anything to the contrary in the *Monash University Act 1958*, a person who is a member of the Council of Monash in office immediately before that day—

- (a) continues, subject to section 14 of that Act, as a member of that Council until 1 July 1991; and
- (b) will not cease to hold office by reason only that he or she ceases to hold the qualification which entitled him or her to be appointed or elected as, or to be *ex officio*, a member of the Council of Monash.

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(2) On the Appointed Day, despite anything to the contrary in the *Monash University Act 1958*, a person who is an elected or appointed member of the Council of Chisholm immediately before that day, becomes a member of the Council of Monash and—

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- (a) continues, subject to section 14 of that Act, as a member of that Council until 1 July 1991; and
- (b) will not cease to hold office by reason only that he or she ceases to hold the qualification which entitled him or her to be appointed or elected as a member of the Council of Chisholm.

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(3) If a person who was a member of the Council of Monash by reason of sub-section (1) or (2) ceases to be a member of that Council before 1 July 1991—

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- (a) in the case of a person who was a member by reason of sub-section (1), the Council may co-opt a person nominated by the majority of the members of the Council holding office by reason of sub-section (1) to fill the vacancy; and
- (b) in the case of a person who was a member by reason of sub-section (2), the Council may co-opt a person nominated by the majority of the members of the Council holding office by reason of sub-section (2) to fill the vacancy.

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(4) On and from the Appointed Day—

- (a) the person who was the President of the Council of Gippsland immediately before that Day; and
- (b) a person who was a member of that Council before that day and who was elected by that Council before that Day to be a member of the Council of Monash—

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become members of the Council of Monash.

(5) All members of the Council of Monash holding office on 30 June 1991 go out of office on that date but are eligible for re-election or re-appointment, or to hold office *ex officio*, as members of that Council.

#### Staff of Chisholm and Gippsland

5 7. (1) On the Appointed Day, a person who, immediately before that day, was a member of the staff employed by a Merging Institute or its Council, becomes a member of the staff of Monash.

(2) A person who becomes a member of the staff of Monash under sub-section (1)—

10 (a) is a member of the staff of Monash with remuneration no less than the person was receiving or was entitled to receive as a member of the staff of a Merging Institute immediately before the Appointed Day, and on terms and conditions no less favourable than those of the person's appointment in the Merging Institute; and

15 (b) continues to have the benefit of all entitlements (including all entitlements arising from recognition of prior service with other bodies) accrued in respect of the person's appointment in the Merging Institute before the Appointed Day; and

20 (c) if the person was, immediately before the Appointed Day, an officer within the meaning of the *State Superannuation Act 1988*, the person continues, subject to that Act, to be an officer within the meaning of that Act, while he or she continues as a member of the staff of Monash.

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#### Students of Chisholm and Gippsland

8. (1) On the Appointed Day, a person who, during 1990, was a student of a Merging Institute and has not ceased to be a student of the Merging Institute at that day, becomes a student of Monash.

30 (2) Despite anything to the contrary in the *Monash University Act 1958*—

35 (a) statutes or regulations made under that Act by the Council of Monash may authorise the Council, at the request of a person who becomes a student of Monash by reason of sub-section (1), to confer on the student, subject to and in accordance with the statutes and regulations, a degree, diploma, certificate or other award under a name that includes the title of the award and the words "Chisholm Institute of Technology" or "Gippsland Institute of Advanced Education" as the case requires; and

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(b) the powers of the Council of Monash under section 23 of that Act extend to the conferring of any award on a person who becomes an enrolled student of Monash by reason of sub-section (1) that a Merging Institute might have conferred on the person if this Act had not been enacted; and

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(c) a person who holds a degree or diploma of a Merging Institute is entitled to the same benefits and privileges at Monash as are enjoyed by persons holding degrees or diplomas of Monash, as if the degree or diploma of the Merging Institute were a degree or diploma of Monash. 5

(3) A person who immediately before the Appointed Day was enrolled as a graduate of a Merging Institute is entitled to the same benefits and privileges as a graduate of Monash.

(4) If a person was before the Appointed Day entitled to a degree, diploma, certificate or other award of a Merging Institute that had not been conferred or granted, the degree, diploma, certificate or award must be granted by the Council of Monash and, for that purpose, the Council of Monash may exercise in the name of the Merging Institute any power that the Council of the Merging Institute might have exercised before the Appointed Day in respect of that degree, diploma, certificate or other award. 10 15

(5) A person who, at the Appointed Day, has any right or entitlement to be enrolled as a student of a Merging Institute has the equivalent right or entitlement to be enrolled as a student of Monash.

#### **Indemnity of former members of Council of Chisholm and Gippsland** 20

9. A person who, immediately before the Appointed Day, was a member of the Council of a Merging Institute is entitled to be indemnified by Monash in respect of any personal liability arising out of the *bona fide* execution of the duties, powers, authorities and discretions conferred or imposed on him or her as a member of the Council of the Merging Institute to the same extent and in the same circumstances as he or she was entitled to be indemnified out of the assets of the Merging Institute before the Appointed Day. 25

#### **Land used by Chisholm and Gippsland**

10. (1) On the Appointed Day, the land described in Parts 1 and 2 of the Schedule vests in fee simple in Monash, subject to the conditions, covenants, encumbrances, caveats, limitations, exceptions, reservations and restrictions to which the land was subject immediately before its vesting under this sub-section. 30

(2) No compensation is payable by the Crown in respect of anything done under or arising out of this section. 35

#### **Amendment of Register etc.**

11. (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument, must make any amendments in the Register under the *Transfer of Land Act 1958* that are necessary because of the operation of this Act. 40

(2) If the plan of consolidation lodged in the Office of Titles and numbered CP 172272F is approved and a single folio of the Register is created for the land on the plan—



- (a) if the folio is created on or after the Appointed Day, the folio must be in the name of Monash University; or
- (b) if the folio is created before the Appointed Day, a reference in the Schedule to the folios of the Register cancelled following the approval of the plan of consolidation must be taken to be a reference to the new folio of the Register created for the land on the plan.

(3) If, at the date of commencement of this section, section 6 of the *Transfer of Land (Computer Register) Act 1989* is not in operation, then until that section comes into operation—

- (a) sub-section (1) of this section has effect as if it provided as follows:

“(1) The Registrar of Titles, on being requested to do so and on production of any relevant duplicate certificate of title or other relevant instrument, must make any amendments to the Register Book under the *Transfer of Land Act 1958* and to any duplicate Crown grant, duplicate certificate of title, duplicate registered instrument or other document that are necessary because of the operation of this Act.”; and

- (b) sub-section (2) has effect as if it referred to a certificate of title issued instead of a folio of the Register and to a certificate of title issued instead of a folio of the Register created; and

- (c) the Schedule has effect as if it referred to certificates of title instead of to folios of the Register.

(4) Despite anything to the contrary in the *Land Act 1958*, the Governor in Council as soon as may be after the Appointed Day, on behalf of the Crown, may grant to Monash the lands described as Reserved Crown Lands in Part 1 of the Schedule for an estate in fee simple.

(5) A Crown Grant under sub-section (4)—

- (a) may adjust the boundaries of the Reserved Crown Land in any respect in order to overcome any defect found on survey; and

- (b) may be made subject to such covenants, conditions, reservations, exceptions and restrictions as the Governor in Council thinks fit.

### Regulations of Merging Institutes

12. (1) The regulations of a Merging Institute in force immediately before the Appointed Day, to the extent to which they could be made as Statutes under the *Monash University Act 1958* and are not inconsistent with any Statutes or regulations so made, continue to have effect—

- (a) as if made as regulations under a Statute of Monash; and

(b) as if a reference to the Institute as a campus were a reference to that campus; and

(c) as if any other reference to the Institute were a reference to Monash.

(2) Regulations continued in force under sub-section (1)— 5

(a) may be amended or revoked as if they were regulations made under the *Monash University Act 1958* and as if this section were the Statute under which they were made; and

(b) unless sooner revoked, expire on 30 June 1991.

#### **Powers of Merging Institutes** 10

13. Despite anything to the contrary in the constitution of a Merging Institute or its Council, the Institute or Council shall be deemed to have, and always to have had, power to do all things it is authorised or empowered to do under and for the purposes of this Act or necessary to be done for the purpose of the merger with Monash in accordance with this Act. 15

#### **Revocation of Orders in Council**

14. (1) The Order in Council incorporating a Council called the Council of the Chisholm Institute of Technology made on 2 March 1982 and published in the *Government Gazette* on 3 March 1982 (as amended) is revoked. 20

(2) The Order in Council constituting a Council to be known as the Council of the Gippsland Institute of Advanced Education made on 2 September 1986 and published in the *Government Gazette* on 3 September 1986 is revoked. 25

#### **Amendment of *Post-Secondary Education Act 1978***

15. (1) In Schedule 2 to the *Post-Secondary Education Act 1978*, omit—

(a) “Chisholm Institute of Technology”; and

(b) “Gippsland Institute of Advanced Education”. 30

### **PART 3—AMENDMENT OF *MONASH UNIVERSITY ACT 1958***

#### **Principal Act**

16. In this Part, the *Monash University Act 1958* is called the Principal Act.

**Amendment of sections 2 and 5**

17. The Principal Act is amended as follows:

- (a) In section 2, in the interpretation of “Professor” after “associate professor” insert “, an adjunct professor,”;
- 5 (b) In section 5 (c) omit “but so that the standard for graduation in the University shall be at least as high as prevails in the University of Melbourne”.

**Section 7 substituted**

18. For section 7 of the Principal Act substitute—

10 **Constitution of Council**

“7. (1) The Council shall consist of not more than 43 members as follows:

- (a) 11 persons appointed by the Governor in Council of whom—
  - 15 (i) 3 shall be members of the Parliament of Victoria recommended for appointment by a joint sitting of the members of the Legislative Council and the Legislative Assembly conducted in accordance with rules adopted for the purpose by the members present at the sitting; and
  - (ii) 8 shall be appointed as representing agricultural, professional, industrial and commercial interests, including one representing the interests of employees in commerce and industry, being a person nominated by the members of the body known as the Victorian Trades Hall Council;
- (b) 2 members shall be persons elected in accordance with the Statutes by the graduates of the University and shall not include—
  - 30 (i) a person whose sole or principal employment is as a member of the staff of the University; or
  - (ii) a student;
- (c) Not less than 2 nor more than 4 members shall be appointed by co-option by the Council on the nomination or joint nomination of the Advisory Council or Councils of any University College or Colleges constituted under section 24A;
- 35 (d) 3 members shall be persons elected in accordance with the Statutes from among their number by the professors;
- 40 (e) 4 members shall be persons each of whom shall be elected, in accordance with the Statutes, from among their number by such class or classes of members of the teaching staff of the University (other than the

- professors) as is or are prescribed in respect of such office by the Statutes;
- (f) The Vice-Chancellor and President and (where he or she is not otherwise a member of the Council) the Chancellor shall be members *ex officio*; 5
  - (g) 1 member shall be a person appointed by the Minister who shall be either the Chief Executive Officer of the Ministry of Education or a deputy for the Chief Executive;
  - (h) Such number of members, not exceeding 8, as the Council determines shall be persons appointed by co-option by the Council and shall not include— 10
    - (i) any person whose sole or principal employment is as a member of the staff of the University; or
    - (ii) a student; 15
  - (i) 2 members shall be deans of faculties appointed by co-option by the Council;
  - (j) 3 members shall be persons each of whom shall be elected in accordance with the Statutes from among their number by such class or classes of members of the staff of Monash (other than the teaching staff) as is or are prescribed in respect of such office by the Statutes; and 20
  - (k) 3 members shall be persons each of whom shall be elected, in accordance with the Statutes, from among their number by such class or classes of students as is or are prescribed in respect of such office by the Statutes. 25
- (2) In the case only of the first appointments, elections and co-options of the members of the Council to take effect on or after 1 July 1991— 30
- (a) such of the members appointed under sub-section (1) (a) (ii) specified in that behalf by Order of the Governor in Council, or co-opted under sub-section (1) (c) or (h), shall vacate office on 30 June in the year, being 1991, 1992, 1993 or 1994, specified in the Order of the Governor in Council by which they are appointed, or by the Council at the time of their co-option; 35
  - (b) such of the members elected under sub-section (1) (b), (d), (e) or (j) shall, subject to this Act, vacate office on 30 June in one of the four years next following the election as is specified by a Statute made in that behalf, and the persons elected shall be allocated periods of office in the order of their election, with the longest period being allocated to the person first elected and so on in order of their election; 40
  - (c) one of the members co-opted by the Council under sub-section (1) (i) shall be co-opted until 30 June next 45

occurring and the person last elected under sub-section (1) (k) shall vacate the office on 30 June next occurring.

5 (3) After the first appointments or elections referred to in sub-section (2), all appointments and elections shall be for the terms provided by this Act, but all appointments by co-option shall expire on 30 June.”.

**Deputy Chancellors**

19. The Principal Act is amended as follows:

- 10 (a) In section 17 (1) for “one of its members to be the Deputy Chancellor”, substitute “not more than three of its members to be Deputy Chancellors”;
- (b) In section 17 (2) for “the Deputy Chancellor” substitute “a Deputy Chancellor”;
- 15 (c) In section 27 (1D), for “Deputy Chancellor” substitute “Deputy Chancellors”.

**New section 18 substituted**

20. For section 18 of the Principal Act substitute—

**Chairing of meetings**

20 “18. At a meeting of the Council, the Chancellor or, in his or her absence, a Deputy Chancellor elected by the members present at the meeting shall preside and, in the absence of the Chancellor and all the Deputy Chancellors, the members of the Council present at the meeting shall elect a chairman of the meeting.”.

**25 Vice-Chancellor and President**

21. (1) The Principal Act is amended as follows:

- (a) In section 7 (f), after “Vice-Chancellor” insert “and President”;
- 30 (b) In section 21, after “Vice-Chancellor” insert “and President”;
- (c) In section 27 (1D), after “Vice-Chancellor” insert “and President”;
- (d) In section 39, after “Vice-Chancellor” (wherever occurring) insert “and President”;
- 35 (e) In section 39A, after “Vice-Chancellor” (wherever occurring) insert “and President”.

(2) The office which immediately before the commencement of this section was known as that of the Vice-Chancellor shall on and after that commencement be known as that of the Vice-Chancellor and  
40 President.

(3) Despite the change of title, the office of Vice-Chancellor and President is the same office as the office of Vice-Chancellor and nothing done by, to or in relation to, the Vice-Chancellor shall be affected by the change of title.

**New section 24 inserted**

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22. After section 24 of the Principal Act insert—

**University Colleges**

“24A. (1) The Council, by Statute—

- (a) may constitute any part of the University as a University College of the University; and 10
- (b) may make such provision as it thinks fit for or with respect to the governance of the University College, including, without limiting the generality of the foregoing, the establishment of an Advisory Council for the College to advise the Council of the University on the management and development of the College. 15

(2) An Advisory Council of a University College, despite anything in this Act—

- (a) may by resolution constitute and appoint such committees (consisting wholly or partly of members of the Advisory Council) as it thinks fit; and 20
- (b) by resolution, may delegate all or any of its powers, authorities, discretions and functions (other than this power of delegation)—
  - (i) to any such committee of which at least half the members are members of the Advisory Council; or 25
  - (ii) to any members of the Advisory Council; or
  - (iii) to any officer of the University College.”.

**Academic Board**

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23. (1) For the heading preceding section 26 of the Principal Act substitute “DIVISION 3—THE ACADEMIC BOARD”.

(2) For section 26 (1) of the Principal Act substitute—

**Academic Board**

“26. (1) There shall be an Academic Board consisting of the Chancellor, the Deputy Chancellors, the Vice-Chancellor and President, the Chief Librarian, the Director of the Computer Centre at the University and such other members, being professors, members of staff or students, as are elected or appointed to be members of the Academic Board in accordance with the Statutes.”. 40

(3) The Principal Act is amended as follows:

- (a) In section 26 (2), for “Professorial Board” substitute “Academic Board”;
- (b) In section 28 (2) (a), for “Professorial Board” substitute “Academic Board”;
- (c) In section 29 (2), for “Professorial Board” substitute “Academic Board”;
- (d) In section 30, for “Professorial Board” (wherever occurring) substitute “Academic Board”.

**PART 4—MISCELLANEOUS**

**Statute law revision**

24. The Principal Act is amended as follows:

- (a) In section 1, sub-section (2) is repealed;
- (b) In section 31 (1), for “Revenue” substitute “Fund”.



## SCHEDULE

Section 10

## Part 1—Land used by Chisholm

## 1. Land at Caulfield which vests in Monash

## (1) Reserved Crown Land

- (a) The area of 2 acres 22 perches in the Parish of Prahran at Caulfield, County of Bourke temporarily reserved as a Site for a Technical School by the Governor in Council (Order in Council 30 May 1939, *Government Gazette* 31 May 1939, page 1784).
- (b) The area of 2 acres 3 roods 14 perches, more or less, Parish of Prahran at Caulfield, County of Bourke temporarily reserved as a Site for Educational Purposes by the Governor in Council (Order in Council 26 April 1972, *Government Gazette* 3 May 1972, page 1120).

## (2) Folios of the Register:

<i>Volume</i>	<i>Folio</i>
2868	553
2915	998
3203	532
5800	818
5830	838
6450	969
6899	770
8214	481
9189	241
9454	142
9706	721
9748	492
9748	493
9748	494
9748	495

## 2. Land at Frankston which vests in Monash

## Folios of the Register:

<i>Volume</i>	<i>Folio</i>
3194	676
4288	420
4303	577
4769	715
4888	531
4937	226
5932	303
7436	057
7436	058
7866	029
8194	133
8675	195



*Monash University (Chisholm and Gippsland)*

Sch.

8746	599
9085	477

**Part 2—Land used by Gippsland**

Land at Churchill which vests in Monash

Folio of the Register:

<i>Volume</i>	<i>Folio</i>
8828	378

