

R6.271 - THE MALCOLM D H SMITH MEMORIAL SCHOLARSHIPS

Recitals-

- A. In 2007 and subsequently, the faculty of Law conducted a public appeal to establish a scholarship in memory of Professor Malcolm David Hamilton Smith, LLB (Melb.), LLM (Melb.), LLM (Harvard), SJD (Harvard), who died on 22 June 2006, to commemorate his outstanding contribution to Asian legal studies in Australia and internationally.
- B. Professor Smith was a member of staff of the University from 1987 to 2004; from 2004 he was an honorary professorial fellow at the University. While at the University, Professor Smith was the founding director of the Asian Law Centre (1987 to 2000), foundation professor of Asian Law (1987 to 2004), and the associate dean (undergraduate) of the faculty of Law (1990 to 1991, and 1997 to 1999). In 2004 Professor Smith was appointed as professor of Law at Chuo University, Japan, becoming the first Australian to teach Japanese law to Japanese students in the Japanese language.
- C. Donors to the appeal returned their donations with a contribution form ('appeal form') which stated-
- 'The Asian Law Centre has opened a fund that will ultimately be used to establish a memorial scholarship to remember Professor Smith and his exceptional contribution to Asian legal studies.
- The Malcolm DH Smith Memorial Scholarship will be awarded each year to a first-year JD student commencing at the Melbourne Law School who has completed an undergraduate law degree or a degree majoring in Asian studies at a tertiary institution in Australia or Asia.'
- D. Family, friends and colleagues of Professor Smith donated the sum of \$29,000 to the appeal ('donations'), and further sums may be donated to the appeal from time to time.
- E. The University accepted the donations upon the trusts specified in the appeal form, and the donations therefore became the capital subject to those trusts ('capital sum').
- F. This regulation records-
- (1) the trusts specified in the appeal form upon which the University as trustee holds the capital sum; and
 - (2) the administrative arrangements for the implementation of those trusts, as determined by the University from time to time.

It is provided as follows-

Name of the fund

1. The capital sum, all income from the capital sum, and any accumulations and additions thereto together form a fund called 'The Malcolm D H Smith Memorial Scholarships Fund' ('fund').

Investment of the fund

2. The fund is to be paid into one or more investment pools and remain there until Council directs otherwise.

Trust terms

3. As trustee of the fund, the University is obliged by the trusts specified in the appeal form ('trust terms')-
 - (1) to establish a perpetual trust;
 - (2) to preserve the capital of the fund, meaning that the capital of the fund is not to be spent;
 - (3) to establish a memorial scholarship in memory of Malcolm David Hamilton Smith ('scholarship');
 - (4) to name each scholarship 'The Malcolm D H Smith Memorial Scholarship'; and
 - (5) to award one scholarship annually to a first-year student enrolled in or enrolling in the Juris Doctor degree commencing at Melbourne Law School ('faculty') who has completed at a tertiary institution in Australia or Asia an undergraduate law degree or a degree majoring in Asian studies.

Administrative arrangements

4. Until its further determination, and in order to implement the trust terms, the University has determined-
 - (1) to award each scholarship to a student selected by the dean of the faculty ('dean') upon the recommendation of a selection committee ('committee');
 - (2) that the name and composition of the committee is to be determined by the dean from time to time;
 - (3) that the value and term of each scholarship is to be determined by the dean upon the recommendation of the committee; and
 - (4) that if in any year there remains any unspent net annual income, then the dean upon the recommendation of the committee may determine that-
 - (a) it may be retained as income to be spent in a subsequent year to award a scholarship; or
 - (b) it may be added to the capital of the fund.
5. Council hereby authorises the dean to award each scholarship on behalf of the University.

[Made 27/4/09]