

(Reprint No. 1)

SOUTH AUSTRALIA

TECHNICAL AND FURTHER EDUCATION ACT, 1975

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 15 January 1992.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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TECHNICAL AND FURTHER EDUCATION ACT, 1975

being

Further Education Act, 1975, No. 17 of 1976 [Assented to 4 March 1976]¹

as amended by

Further Education Act Amendment Act, 1979, No. 13 of 1979 [Assented to 8 March 1979]²
Further Education Act Amendment Act, 1980, No. 36 of 1980 [Assented to 17 April 1980]
Further Education Act Amendment Act, 1983, No. 94 of 1983 [Assented to 15 December 1983]³
Tertiary Education Act, 1986, No. 119 of 1986 [Assented to 18 December 1986]⁴
Technical and Further Education Act Amendment Act, 1987, No. 62 of 1987 [Assented to 22 October 1987]⁵
Technical and Further Education Act Amendment Act, 1988, No. 25 of 1988 [Assented to 21 April 1988]⁶
Technical and Further Education Act Amendment Act, 1990, No. 48 of 1990 [Assented to 15 November 1990]⁷
Industrial Conciliation and Arbitration (Commonwealth Provisions) Amendment Act 1991 No. 34 of 1991 [Assented to 24 April 1991]⁸

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to make provision for technical and further education in this State; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I PRELIMINARY

Short title

1. This Act may be cited as the *Technical and Further Education Act, 1975*.

Commencement

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation made for the purposes of subsection (1) of this section, suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

¹Came into operation (except Part V) 29 April 1976: *Gaz.* 29 April 1976, p. 2218; Part V came into operation 3 November 1977: *Gaz.* 3 November 1977, p. 1350.

²Came into operation (except Part II) 3 May 1979: *Gaz.* 3 May 1979, p. 1313; Part II came into operation 1 January 1978: s. 2(2).

³Came into operation 26 January 1984: *Gaz.* 26 January 1984, p. 175.

⁴Came into operation 1 January 1987: *Gaz.* 18 December 1986, p. 1876.

⁵Came into operation 1 January 1988: *Gaz.* 17 December 1987, p. 1851.

⁶Came into operation 9 June 1988: *Gaz.* 9 June 1988, p. 1868.

⁷Came into operation 10 January 1991: *Gaz.* 10 January 1991, p. 32.

⁸Came into operation 1 July 1991: *Gaz.* 27 June 1991, p. 2059.

Arrangement of Act

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—THE MINISTER AND THE DEPARTMENT

PART III—THE TEACHING SERVICE

DIVISION I—APPOINTMENT TO THE TEACHING SERVICE

DIVISION II—RETRENCHMENT AND RETIREMENT OF OFFICERS

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PART IV—COLLEGE COUNCILS

PART V—LICENSING OF CERTAIN INSTITUTIONS BY WHICH

TECHNICAL AND FURTHER EDUCATION IS PROVIDED

PART VI—MISCELLANEOUS.

Interpretation

4. (1) In this Act, unless the contrary intention appears—

“the Appeal Board” means the Teachers Appeal Board established under the *Education Act, 1972-1975*:

“college of technical and further education” means an educational institution at which technical and further education is provided pursuant to this Act:

“the Director-General” means the person for the time being holding, or acting in, the office of Director-General of Technical and Further Education:

“the Department” means the Department of Technical and Further Education:

* * * * *

“the Minister” means the Minister of Employment and Further Education or any other Minister of the Crown for the time being exercising and discharging the functions and responsibilities of the Minister of Employment and Further Education:

* * * * *

“technical and further education” means instruction or training in any academic, vocational or practical discipline other than instruction or training excluded from the application of this Act:

(2) A reference in this Act to the effective service of an officer is a reference to—

(a) the period (if any) of the officer’s continuous service in the teaching service;

and

(b) any other period (if any) that is, by determination of the Minister to be regarded as forming the whole, or part, of the officer’s effective service,

but does not include any period that is, by determination of the Minister, not to be regarded as a period of effective service for the purposes of this Act.

(3) The Minister may, by instrument in writing, determine in relation to any specified officers, or officers of any specified class, that a period referred to in the instrument is, or is not, to be regarded as a period of effective service for the purposes of this Act.

Application of Act

5. This Act does not apply in respect of—

- (a) instruction or training provided at any Government school maintained by the Minister under the *Education Act, 1972-1975*;
 - (b) instruction or training in primary or secondary education provided at any school (not being a college of technical and further education) that is attended by the students, or a majority of the students, enrolled at the school on a full-time basis;
 - (c) instruction or training provided by any university or college of advanced education established by statute;
 - (d) pre-school instruction or training;
- or
- (e) instruction or training provided by any theological college, seminary or religious body.

PART II

THE MINISTER AND THE DEPARTMENT

Administration of this Act

6. (1) Subject to this Act, the Minister shall have the general administration of this Act, and the administration and control of the teaching service.

(2) The Minister may, in determining the courses of technical and further education to be provided under this Act, collaborate with—

(a) the South Australian Board of Advanced Education;

(b) the Australian Council on Awards in Advanced Education;

(c) the Tertiary Education Commission;

and

(d) any other body constituted under the law of the State or the Commonwealth with which collaboration is desirable in the interests of promoting the objects of this Act.

The Minister

7. (1) For the purposes of this Act, the Minister—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of acquiring, holding and disposing of real and personal property;

(c) shall be capable of acquiring or incurring any other legal rights and liabilities, and of suing and being sued;

and

(d) shall have the powers, authorities, duties and obligations prescribed under this Act.

(2) Where an apparently genuine document purports to bear the common seal of the Minister, it shall be presumed, in the absence of proof to the contrary, that the common seal of the Minister was duly affixed to that document.

Delegation by Minister

8. (1) The Minister may, by instrument in writing, delegate to—

(a) the Director-General;

(b) the person for the time being holding or acting in any position or office in the Department or the teaching service;

or

(c) the person for the time being holding or acting in an office or position established by the Minister under section 9,

any of the Minister's powers, duties, responsibilities or functions under this Act, except the power to dismiss a person from office.

(2) A delegation under this section shall be revocable at will and shall not prevent the exercise of any power by the Minister himself.

General powers of the Minister

9. (1) The Minister shall establish and maintain such colleges of technical and further education as he considers necessary or desirable for the purposes of providing technical and further education.

(2) The Minister may, where in his opinion the public interest does not require the continuance of any college of technical and further education, close the college permanently or temporarily and sell or otherwise dispose of the land, buildings and equipment acquired or set apart for the purposes of that college.

(3) The Minister may establish and maintain such institutions as he considers necessary for the education and training of those who are to give instruction or training in colleges of technical and further education.

(4) The Minister may establish and maintain boarding houses for the accommodation of students at any college of technical and further education or any institution established under subsection (3) of this section.

(5) The Minister may make available any premises and equipment for the purposes of technical and further education.

(6) The Minister may appoint such officers and employees (in addition to the officers of the Department and of the teaching service) as he considers necessary for the proper administration of this Act.

(7) The Minister may, subject to and in accordance with the *Land Acquisition Act, 1969-1972*, acquire land for the purposes of this Act.

* * * * *

Advisory committees

10a. (1) The Minister may appoint such advisory committees as he considers desirable.

(2) The membership of an advisory committee shall be as determined by the Minister and its members shall hold office at his pleasure.

(3) An advisory committee shall investigate—

(a) aspects of technical and further education;

and

(b) matters affecting the administration of this Act,

as directed by the Minister and shall advise the Director-General of the results of its investigations.

(4) Subject to any direction of the Minister, the procedure of an advisory committee shall be determined by the committee.

Continuance of the Department

11. (1) The Department established under the *Public Service Act* and entitled the "Department of Technical and Further Education" shall continue in existence.

(2) There shall be a Director-General of Technical and Further Education who shall be the Permanent Head of the Department.

(3) There shall be such other officers of the Department as may be necessary or expedient for the proper administration of this Act.

Duties of the Director-General

12. The Director-General shall be responsible to the Minister—

- (a) for maintaining a proper standard of efficiency and competency in the teaching service;
- (b) shall have such other powers and perform such other duties as are vested in and imposed upon him under this Act or as he may be directed to exercise or perform by the Minister.

Delegation by Director-General

13. (1) The Director-General may, by instrument in writing and with the consent of the Minister, delegate to—

- (a) the person for the time being holding or acting in any position or office in the Department or the teaching service;

or

- (b) the person for the time being holding or acting in an office or position established by the Minister under section 9,

any of the Director-General's powers, duties, responsibilities or functions under this Act.

(2) Any such delegation shall be revocable at will and shall not prevent the exercise of any power by the Director-General himself.

Report

14. (1) The Director-General shall in each year make a report on the administration of the Department up to the thirty-first day of December of the year last preceding the date of the report.

(2) The Minister shall cause a copy of the report to be laid before each House of Parliament as soon as practicable after he receives the report.

PART III

THE TEACHING SERVICE

DIVISION I—APPOINTMENT TO THE TEACHING SERVICE

Appointment to the teaching service

15. (1) Subject to this Act, the Minister may appoint such teachers to be officers of the teaching service as he thinks fit.

(2) An officer may be so appointed on a permanent or temporary basis.

(3) The first appointment of an officer to the teaching service may be made upon probation.

(4) The probation shall be for such period of effective service (not exceeding two years' effective service) as may be determined by the Minister.

(5) No officer appointed on a permanent basis shall be dismissed or retired from the teaching service except in accordance with the provisions of this Act.

(6) An officer appointed on a temporary basis shall hold office at the pleasure of the Minister.

* * * * *

DIVISION II—RETRENCHMENT AND RETIREMENT OF OFFICERS

Retrenchment of officers of the teaching service

16. (1) Where the Minister is satisfied that—

(a) the volume of work in any section of the teaching service has diminished;

(b) in consequence a reduction in staff of the teaching service has become necessary in the interest of economy;

and

(c) an officer should be retrenched for that purpose,

the Minister may, by a written determination under his hand, retrench that officer as from a date specified in the determination.

(2) An officer who is retrenched under the provisions of this section shall be entitled to receive—

(a) at least twelve weeks notice in writing prior to the date of retrenchment;

or

(b) where the notice is less than twelve weeks, a sum equal to his salary for the period by which the notice falls short of twelve weeks.

(3) An officer may, within fourteen days after he receives notice of a determination under this section, appeal against the determination to the Appeal Board.

(4) The Appeal Board may, upon the hearing of an appeal under this section revoke the determination, or, where the determination has taken effect, order that the officer be re-instated in the teaching service and, if the retrenchment has taken effect at the date of the order, the re-instatement shall be retroactive to the date on which the retrenchment took effect.

Incapacity of members of the teaching service

17. (1) If the Director-General is satisfied that an officer is, by reason of mental or physical illness or disability, incapable of performing satisfactorily the duties of the office occupied by the officer, the Director-General may do one or more of the following:

- (a) by written determination, transfer the officer to some other office in the teaching service;
- (b) recommend to the Minister that the officer be transferred to some other employment in the Government of the State;
- (c) grant the officer leave of absence (without remuneration) from the teaching service;
- (d) recommend to the Minister that the officer be retired from the teaching service.

(2) The Director-General must, before transferring or recommending the transfer of an officer to an office or position of reduced status, or recommending that an officer be retired, be satisfied that transfer of the officer to an office or position of equivalent status is not reasonably practicable in the circumstances.

(3) Where an officer is transferred to an office of reduced status pursuant to subsection (1)(a), the Director-General must alter the classification of the officer accordingly.

(4) The Minister, on receiving a recommendation under subsection (1)(b), may appoint the officer to an office or position pursuant to section 9(6) or take action with a view to securing for the officer some other appropriate employment in the Government of the State.

(5) The Minister, on receiving a recommendation under subsection (1)(d) may, in accordance with that recommendation, retire the officer from the teaching service.

(6) An officer may, within 14 days after receiving notice of a determination under this section or of a decision made by the Minister to transfer or retire the officer in accordance with a recommendation under this section, appeal to the Appeal Board against the determination or decision.

(7) The Appeal Board may, upon the hearing of an appeal under this section, revoke the determination or decision and, where effect has been given to the determination or decision, order that the officer be reinstated as if no determination or decision had been made.

DIVISION III—LONG SERVICE LEAVE

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Long service leave

19. (1) An officer's entitlement to long service leave accrues as follows:

- (a) the officer is entitled to 63 days' leave in respect of the first seven years of effective service;
- (b) the officer is then entitled to 0.75 of a day's leave for each subsequent complete month of effective service until the end of the 15th year of effective service;
- (c) the officer is then entitled to 1.25 days' leave for each subsequent complete month of effective service.

(2) Where long service leave is taken by an officer, the officer's entitlement to long service leave is reduced accordingly.

(3) Every day from the commencement to the conclusion of a period of long service leave (whether a working day or not) will be counted as a day of that leave.

(4) This Division—

(a) does not affect an entitlement to long service leave or payment in lieu of long service leave that accrued before the commencement of the *Technical and Further Education Act Amendment Act, 1987*;

and

(b) does not prejudice an entitlement to pro rata long service leave arising after five years' effective service that would have come into existence if the *Technical and Further Education Act Amendment Act, 1987*, had not been enacted.

Taking of long service leave

20. (1) Subject to this section, an officer who has completed at least 10 years' effective service is entitled to take long service leave.

(2) The Director-General may permit an officer who has completed at least seven years' effective service to take long service leave.

(3) Long service leave may only be taken in respect of completed years of effective service.

(4) Long service leave may only be taken at times and for periods that are, in the opinion of the Director-General, convenient to the Department.

(5) Subject to this section, the salary to which an officer is entitled during long service leave is—

(a) where the effective service of an officer consists of full-time service—the salary applicable to the officer's substantive classification level during that leave (excluding any additional salary attributable to a higher classification level temporarily assigned to the officer);

(b) where the effective service of an officer consists in whole or in part of part-time service—a salary determined by the Director-General.

(6) An officer may elect to take long service leave on half salary and, in that event, may take two days' leave for each whole day of the officer's entitlement.

(7) Where the effective service of an officer consists in whole or in part of part-time service, the officer may elect to take long service leave on the salary applicable to full-time service and, in that event, the period of the long service leave will be reduced accordingly.

(8) The Director-General may authorize payment to an officer on long service leave of such additional salary or allowances as the Director-General considers appropriate.

Payment in lieu of long service leave

21. (1) Where a person ceases to be an officer in the teaching service after not less than seven years' effective service, the person is entitled to payment of the monetary equivalent of the officer's long service leave entitlement as at the date of cessation of service.

(2) Where an officer dies, the Minister must pay to—

(a) the officer's personal representative;

or

(b) such of the officer's dependants as the Minister considers appropriate,

the monetary equivalent of the officer's long service leave entitlement as at the date of death.

(3) In determining the monetary equivalent of a long service leave entitlement no allowance will be made for an increase in salary that may or would have been made if the officer's service had not ceased.

(4) The Minister may apply any amount payable to or in respect of an officer under this section in satisfaction of a claim against the officer.

Interruption of service

22. (1) Where a person retires or is retired from employment under this Act on the ground of invalidity and is subsequently re-employed as an officer, his service before retirement and service after re-employment shall, for the purposes of this Division (except to the extent to which he has received long service leave or payment in lieu thereof in respect of any such period of service) be taken into account as though that service were continuous.

(2) Where the service of an officer is interrupted otherwise than by resignation, or dismissal for misconduct, and he is subsequently appointed as an officer of the teaching service within two years after the date of that interruption, his service before the interruption and his service after the interruption shall, for the purposes of this Division (except to the extent to which he has received long service leave or payment in lieu thereof in respect of any such period of service) be taken into account as though the service were continuous.

(3) Where either before or after the commencement of this Act the service of an officer was interrupted otherwise than by resignation or dismissal for misconduct for a period exceeding two years, the Minister may grant a certificate under this section.

(4) Where the Minister grants a certificate under subsection (3) of this section the service of the officer shall be regarded as continuous notwithstanding the interruption, but the period of the interruption shall not be taken into account in determining the period of the officer's service.

Transfer of teachers to other Government employment

23. (1) If an officer is transferred to any other employment in the Government of the State, and his service in that employment is continuous with his service as an officer his service as an officer shall be taken into account for the purpose of computing long service leave to which he may be entitled in respect of that other employment.

(2) This section does not apply to service in respect of which long service leave has been granted, or a payment in lieu of long service leave has been made, to the officer under this Act.

Rights of persons transferred to the teaching service

24. (1) Where a person who has previously been in prescribed employment is appointed as an officer under this Act, and his service in the prescribed employment is continuous with his service as an officer the long service leave to which he shall be entitled under this Act shall be determined on the basis that his service in the prescribed employment is service in the teaching service.

(2) In this section "prescribed employment" means—

(a) employment in the Public Service of the Commonwealth;

(b) employment in the Public Service in this State;

(c) employment by the Government of the State otherwise than as an officer of the Public Service;

(d) employment in the Public Service in any other State or Territory of the Commonwealth;

(e) employment by a University or College of Advanced Education established in this State;

and

(f) any other employment approved by the Minister.

(3) This section does not apply to service in respect of which long service leave has been granted, or a payment in lieu of long service leave has been made.

(4) For the purposes of this section continuity of service is not interrupted by an interval, not exceeding six weeks, between the time that service in the prescribed employment terminated and the time the officer took up his employment as such.

(5) Where there is an interval of more than six weeks between the conclusion of service in the prescribed employment and the commencement of service in the teaching service the Minister may, if he thinks special reasons exist for so doing, declare that that interval shall not disrupt the continuity of service and the declaration shall have effect according to its terms.

DIVISION IV—RETIRING AGE

Retiring age

25. (1) An officer may retire on or after the day on which he reaches the age of fifty-five years, but, subject to subsection (1a) of this section, must retire upon reaching the age of sixty-five years if he has not retired beforehand.

(1a) An officer who reaches the age of sixty-five years during the school year that commences on the first day of February, 1980, may retire after reaching that age but on or before the last day of that academic year.

(2) For the purposes of this section an academic year is the period of twelve months that commences on the first day of February in any year and ends on the thirty-first day of January in the next year.

DIVISION V—DISCIPLINE

Disciplinary action

26. (1) If an officer—

(a) contravenes or fails to comply with any provision of this Act;

(b) contravenes or fails to comply with any lawful direction given to him under this Act;

(c) is negligent, inefficient or incompetent in the discharge of his duties;

(d) is absent from duty without proper cause;

or

(e) is guilty of any disgraceful or improper conduct,

there shall be sufficient cause for disciplinary action against that officer.

(2) Where the Director-General finds that there is sufficient cause for disciplinary action under this section—

(a) he may, by written determination under his hand—

(i) reprimand the officer;

(ii) impose a fine on the officer not exceeding the amount of one week's salary of the officer;

(iii) reduce the classification of the officer;

or

(iv) suspend the officer from duty (without pay) for a period not exceeding one year;

or

(b) he may recommend to the Minister that the officer be dismissed from the teaching service.

(3) The Minister may, upon receipt of a recommendation under subsection (2) of this section, dismiss the officer from the teaching service.

(4) An officer may, within fourteen days after he receives notice of a determination under this section, or a decision made by the Minister to dismiss him under this section, appeal to the Appeal Board against the determination or decision.

(5) The Appeal Board may, upon the hearing of an appeal under this section, vary or revoke the determination or decision subject to appeal, and if the determination or decision has taken effect, order that the officer be re-instated in the teaching service as if no such determination or decision had been made.

(6) Any fine imposed on an officer under this section may be deducted from the salary or other remuneration payable to that officer.

Suspension

27. (1) Where, in the opinion of the Director-General, the nature or circumstances of any matter alleged against an officer are such that the officer should not continue in the performance of his duties, the Director-General may suspend the officer.

(2) A suspension under subsection (1) of this section may be given whether or not the officer has been charged with an offence.

(3) Unless the Minister otherwise directs, a person suspended under this section shall be entitled to his salary in respect of the period of suspension.

(4) Where a direction has been given under subsection (3) of this section, and the guilt of the suspended officer of the matter alleged against him is not established by due process of law he shall be entitled to receive the salary to which he would have been entitled if there had been no direction under subsection (3) of this section.

PART IV

COLLEGE COUNCILS

Establishment of College Councils

28. (1) The Minister may establish a council for any college of technical and further education.

(2) The Minister may establish an interim council for any proposed college of technical and further education.

(3) A council will consist of members appointed by, or in accordance with, the regulations.

(4) The members of the council will hold office for such term and upon such conditions as are prescribed.

(5) Meetings of the council must be conducted in accordance with the regulations.

Incorporation of councils

29. (1) A council shall—

(a) be a body corporate with perpetual succession and a common seal;

(b) be capable of holding and dealing with real and personal property;

(c) be capable of acquiring or incurring any other legal rights or obligations, and of suing and being sued;

and

(d) have such powers, authorities, duties and obligations as may be conferred, imposed or prescribed by or under this Act.

(2) A council shall not engage in any transaction involving the acquisition or disposal of real property unless the Minister has, by instrument in writing, consented to that transaction.

Borrowing power of councils

30. (1) Subject to this Act, a council may, with the approval of the Minister, borrow money from any corporation carrying on the business of banking in this State for the purposes of paying in whole or in part for the erection or construction of any building or structure, or the provision of any facilities, for any college.

(2) Subject to this Act, the Treasurer may guarantee the repayment of any loan made or proposed to be made by a corporation referred to in subsection (1) of this section.

(3) A guarantee shall not be given under this section unless—

(a) the loan for which the guarantee is sought does not exceed fifty per centum of the proportion of the cost of the building, structure, or facilities to be borne by the council;

(b) the council seeking the guarantee has deposited with the Minister in cash an amount not less than fifty per centum of the proportion of the cost of the building structure or facilities to be borne by the council;

(c) the council seeking the guarantee has obtained from a corporation referred to in subsection (1) of this section a loan, or an offer to make a loan subject to the guarantee, and the Treasurer is satisfied that the terms and conditions of the loan or proposed loan are reasonable;

and

(d) the council seeking the guarantee gives such undertakings to, and enters into such agreements with, the Treasurer, or the corporation, as the Treasurer may require.

(4) The guarantee may extend to the payment of interest on the loan and incidental charges and expenses connected with the loan.

(5) The council shall supply the Minister or the Treasurer with such information relating to the loan or proposed loan, or to the purposes of the loan or proposed loan, as the Minister or Treasurer requires.

(6) Where a guarantee is granted under this section, the guarantee shall be subject to the following terms and conditions:—

(a) no term or condition of repayment agreed upon between the banking corporation and the council after the guarantee has been given shall affect the liability under the guarantee unless approved in writing by the Treasurer;

(b) the banking corporation shall take all reasonable and necessary steps to ensure recovery of all instalments of principal and interest upon the due dates in accordance with the terms and conditions subject to which the loan was made and the guarantee given;

and

(c) the banking corporation shall keep the Treasurer informed of any default or delay by the council in respect of the payment of any instalment of principal or interest, or both.

(7) The Treasurer may pay out of the General Revenue of the State any money that he becomes liable to pay under or by virtue of any guarantee given under this Act and this Act shall be sufficient authority for any such payment.

Power to make grant

31. The Minister may, upon such terms and conditions as he thinks fit, make a grant of money to any council established under this Part.

Accounts

32. (1) A council established under this Part shall cause proper accounts to be kept of any moneys received by it and any dealings with those moneys.

(2) The Director-General or any person authorized by him may at any time inspect or audit the accounts of any council established under this Part.

Abolition of council

33. (1) Where a college for which a council has been established under this Part is closed, the Minister may, by instrument in writing, abolish the council.

(2) Where a council is abolished under subsection (1) of this section, the Minister may dispose of the assets of the council in such manner as he thinks proper.

PART V

LICENSING OF CERTAIN INSTITUTIONS BY WHICH TECHNICAL AND
FURTHER EDUCATION IS PROVIDED**Interpretation**

34. In this Part and in Part VI—

“prescribed course of instruction” means a course of academic, vocational or practical instruction or training—

(a) declared by regulation to be a course of instruction or training to which this Part applies;

and

(b) provided by a school or institution, or a school or institution of a class, declared by regulation to be a school or institution, or a class of schools or institutions, to which this Part applies.

Duty to obtain licence in respect of prescribed course of instruction

35. (1) After the day fixed by proclamation for the purposes of this Part, a person shall not provide for fee or reward or hold himself out as prepared to provide for fee or reward a prescribed course of instruction unless he is licensed under this Part.

(2) After the day fixed by proclamation for the purposes of this Part, a person shall not provide for fee or reward a prescribed course of instruction otherwise than in accordance with the terms and conditions of his licence.

(3) For the purposes of this Part a person provides a prescribed course of instruction if he receives or is entitled to receive the fees paid by those for whom the instruction is provided.

(4) Any person who contravenes a provision of this section shall be guilty of an offence and liable to a fine of not more than one thousand dollars.

Application for licence

36. (1) An application for a licence must be made in the prescribed manner and form.

(2) An applicant for a licence shall furnish the Minister with such information as the Minister may require.

(3) Subject to this Part, if the Minister is satisfied—

(a) where instruction or training is to be given otherwise than by correspondence, that the premises in which the instruction or training is to be given are satisfactory;

(b) that the instruction or training is to be given in a proper manner by competent persons;

and

(c) that the instruction or training is to be provided at reasonable fees,

the Minister may grant a licence to the applicant.

Term and renewal of licence

37. (1) Subject to this Part, every licence shall remain in force for three years, and the holder of the licence shall be entitled from time to time, to the renewal of his licence.

(2) A licence may, if the Minister so determines, be granted in the first instance for a period of less than three years.

(3) If the holder of a licence fails to comply with this Part, or any regulation relating to this Part, the Minister may cancel, suspend or decline to renew the licence.

(4) The Minister shall not exercise his powers under subsection (3) of this section unless he has given notice in writing to the licensee of his intention to do so at least twenty-eight days before he does so.

(5) A licensee to whom a notice is given under subsection (4) of this section may, within twenty-eight days of the date of the notice, make representations to the Minister in relation to the proposed cancellation, suspension or non-renewal of the licence.

(6) The Minister shall, before he cancels, suspends or declines to renew a licence, consider any representations made in pursuance of subsection (5) of this section.

Power to inspect approved colleges

38. (1) The Minister, or any person authorized by him in writing, may inspect any premises at which a prescribed course of instruction is provided, and may inspect any books, records or papers that appertain to the provision of that course of instruction.

(2) Any person who obstructs the Minister, or any such authorized person from making any such inspection, or who fails or refuses the authorized person any such book, paper or record, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Variation and transfer of licences

39. (1) The Minister may, on the application of a licensee, vary the terms of a licence.

(2) A licence may, with the approval of the Minister, be transferred.

PART VI
MISCELLANEOUS

Insulting teachers

40. Any person who behaves in an offensive or insulting manner to an officer of the teaching service who is acting in the course of his duties as such shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Offences

41. (1) Proceedings for offences against this Act shall be disposed of summarily.

(2) Proceedings for an offence against this Act shall not be commenced without the consent in writing of the Minister.

(3) In any proceedings for an offence against this Act an apparently genuine document purporting to be under the hand of the Minister and to record his consent to the commencement of the proceedings shall be accepted as proof of that consent in the absence of proof to the contrary.

Moneys required for the purposes of this Act

42. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

Regulations

43. (1) The Governor may make such regulations as are contemplated by this Act, or as he considers necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may make provision with respect to the following matters:—

- (a) the establishment, maintenance and control of colleges of technical and further education by the Minister under this Act and the management of all land, buildings and equipment used in connection therewith;
- (b) the provision of residences or other accommodation for officers of the teaching service;
- (c) the terms and conditions upon which officers of the teaching service shall hold office, their rights to leave of absence and any other privileges, their rights upon retirement from the teaching service and any other matter whatsoever affecting their employment;
- (d) the courses of instruction or training to be provided under this Act and the awards to be conferred upon those who successfully complete any such courses of instruction or training;
- (da) the fees to be paid for or in relation to instruction, training or materials provided or made available to students who enrol in courses conducted under this Act (the regulations made under this paragraph may either fix, or provide for the fixing of, such fees, regulate their payment and provide for exemptions to be granted, in appropriate cases, from liability to pay them);
- (e) the provision of grants to colleges of technical and further education and the conditions applicable to these grants;
- (f) the establishment of scholarships and the provision of allowances to pupils;

- (g) college vacations, the hours at which instruction or training is to be provided, the method to be adopted in teaching, and the discipline to be observed and enforced in colleges of technical and further education;
- (h) the use of the buildings or facilities of colleges of technical and further education;
- (i) prohibiting trespass upon the grounds of any college of technical and further education;
- (ia) regulating, restricting or prohibiting the driving, parking or ranking of vehicles on the grounds of any college of technical and further education;
- (ib) providing evidentiary presumptions in relation to offences against regulations made under paragraph (ia) of this subsection and providing for the expiation of such offences;
- (j) the furnishing of returns to the Director-General by the head of any college of technical and further education, and the matters to be contained in any such returns;
- (k) providing for the constitution of associations of students, or students and staff, of colleges of technical and further education;
- (l) conferring upon officers a right of appeal to the Appeal Board against administrative acts or decisions of the Minister or the Director-General (not being administrative acts or decisions declared by the regulations to be excluded from appeal);
- (m) regulating the provision of prescribed courses of instruction by persons licensed under this Act, and, in particular—
 - (i) requiring any person by which a prescribed course of instruction is provided to give security as the Minister thinks fit for the due performance of any contracts he makes with pupils, or their parents or guardians;
 - (ii) prescribing the equipment to be provided in the premises in which a prescribed course of instruction is given;
 - (iii) prescribing the hours at which instruction is to be provided in a school conducted by a licensed person in pursuance of his licence;
 - (iv) empowering the Director-General to fix the maximum fees to be paid or received by a licensed person, or licensed persons of a particular class, in respect of a prescribed course of instruction and to fix the times or intervals at which, and the instalments in which, fees for the prescribed course of instruction are to be paid;
 - (v) regulating advertisements relating to prescribed courses of instruction, and prohibiting any specified method of advertising in such course of instruction;
 - (vi) prescribing the price at which material required by students may be sold to them by the person conducting the prescribed course of instruction or any person acting on his behalf or by arrangement for him;
 - (vii) regulating the sale of articles or commodities produced by students to whom any licensed person is providing instruction or training;
 - (viii) fixing fees payable upon applications for licences;

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(ix) regulating the issue of certificates of competency or other similar documents by licensed persons, and prescribing the fees for any such certificate, or for any examination conducted in relation to a prescribed course of instruction;

and

(x) providing for the making of returns and the furnishing of information by licensed persons;

and

(n) any other matter necessary or expedient for the proper administration of this Act.

(3) A regulation made under this Act shall not be invalid on the ground that it relates to circumstances that occurred before the commencement of this Act.

(4) A regulation under this Act may provide for a penalty not exceeding two hundred dollars for breach of, or non-compliance with, any provision of the regulation.

APPENDIX

Legislative History

Transitional provision from Industrial Conciliation and Arbitration (Commonwealth Provisions) Amendment Act 1991, s. 55

(11) The following provisions apply in relation to the amendment of the *Education Act 1972* and the *Technical and Further Education Act 1976*:

(a) an award of the Teachers' Salaries Board in force immediately before those amendments will, after those amendments, be taken to be an award of the Commission and will, subject to the principal Act, continue to have the same operation;

and

(b) any proceedings before the Teachers' Salaries Board at the time of those amendments may continue before the Teachers' Salaries Board as if those amendments had not been effected.

Long title:	amended by 94, 1983, s. 3
Section 1:	substituted by 94, 1983, s. 4
Section 3:	amended by 94, 1983, s. 5
Section 4:	redesignated as s. 4(1) by 13, 1979, s. 3 definition of "college of further education" repealed and definition of "college of technical and further education" inserted in its place by 94, 1983, s. 6(a) definition of "the Director-General" amended by 94, 1983, s. 6(b) definition of "the Department" substituted by 94, 1983, s. 6(c) definition of "further education" repealed by 94, 1983, s. 6(d) definition of "the Minister" amended by 48, 1990, s. 3 definition of "the Teachers Salaries Board" repealed by 34, 1991, s. 54(a) definition of "technical and further education" inserted by 94, 1983, s. 6(e)
Section 4(2):	inserted by 13, 1979, s. 3; amended by 62, 1987, s. 3
Section 4(3):	inserted by 13, 1979, s. 3
Section 5:	amended by 13, 1979, s. 8; 94, 1983, s. 7
Section 6(2):	amended by 13, 1979, s. 9; 94, 1983, s. 8
Section 8(1):	substituted by 48, 1990, s. 4
Section 9(1) and (2):	amended by 94, 1983, s. 9(a)
Section 9(3):	amended by 94, 1983, s. 9(b)
Section 9(4) and (5):	amended by 94, 1983, s. 9(a)
Section 10:	substituted by 94, 1983, s. 10; repealed by 119, 1986, Sched. 1
Section 10a:	inserted by 94, 1983, s. 10
Section 11(1) and (2):	amended by 94, 1983, s. 11
Section 13(1):	substituted by 48, 1990, s. 5
Section 15(4):	amended by 13, 1979, s. 10
Section 15(5):	amended by 36, 1980, s. 2(a)
Section 15(6):	amended by 36, 1980, s. 2(b)
Section 15(7):	repealed by 34, 1991, s. 54(b)
Section 17:	substituted by 48, 1990, s. 6
Section 18:	repealed by 13, 1979, s. 4
Section 19:	amended by 13, 1979, s. 5; substituted 62, 1987, s. 4
Section 20:	substituted by 13, 1979, s. 6; 62, 1987, s. 4
Section 21:	amended by 13, 1979, s. 7; substituted by 62, 1987, s. 4
Section 25(1):	substituted by 36, 1980, s. 3
Section 25(1a):	inserted by 36, 1980, s. 3
Section 26(2):	amended by 13, 1979, s. 11
Section 28(1) and (2):	amended by 94, 1983, s. 12
Section 28(3) and (4):	substituted by 25, 1988, s. 3
Section 28(5):	inserted by 25, 1988, s. 3
Heading preceding section 34:	amended by 94, 1984, s. 13
Section 34:	amended by 94, 1984, s. 14
Section 36(3):	amended by 94, 1983, s. 15
Section 37(2):	substituted by 13, 1979, s. 12
Section 37(3) - (6):	inserted by 13, 1979, s. 12
Section 39:	substituted by 13, 1979, s. 13
Section 43(2):	amended by 13, 1979, s. 14; 36, 1980, s. 4; 94, 1983, s. 16