

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 1 January 1994.

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 1 July 1992.

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SCHEDULE

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

Technical and Further Education (Miscellaneous) Amendment Act 1992 No. 7 of 1992 [Assented to 2 April 1992]⁹

Statutes Amendment (Abolition of Compulsory Retirement) Act 1993 No. 75 of 1993 [Assented to 21 October 1993]¹⁰

¹ Came into operation (except Part 5) 29 April 1976: *Gaz.* 29 April 1976, p. 2218; Part 5 came into operation 3 November 1977: *Gaz.* 3 November 1977, p. 1350.

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

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

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

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

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

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

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

⁹ Came into operation 1 July 1992: *Gaz.* 18 June 1992, p. 1756.

¹⁰ Came into operation 1 January 1994: s. 2.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix 1. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

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

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

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

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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*;

"**Chief Executive Officer**" means the person for the time being holding, or acting in, the position of Chief Executive Officer of the Department;

"**college**" means an educational institution at which technical and further education is provided pursuant to this Act;

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"**council**" means a college council established by the Minister under Part 4;

"**the Department**" means the Department of Employment and Technical and Further Education;

"**employee**" means a person employed by the Minister under section 9;

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"**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;

"**officer**" means an officer appointed by the Minister under section 15;

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"**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.

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(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 as an officer; 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.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

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*; or
- (b) instruction or training in primary or secondary education provided at any school (not being a college) that is attended by the students, or a majority of the students, enrolled at the school on a full-time basis; or
- (c) instruction or training provided by any university established by statute; or
- (d) pre-school instruction or training; or
- (e) instruction or training provided by any theological college, seminary or religious body.

PART 2
THE MINISTER AND THE DEPARTMENT

Administration of this Act

6. Subject to this Act, the Minister has the general administration of this Act, and the administration and control of all officers and employees appointed under this Act.

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The Minister

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

- (a) is a body corporate with perpetual succession and a common seal; and
- (b) is capable of acquiring, holding and disposing of real and personal property; and
- (c) is capable of acquiring or incurring any other legal rights and liabilities, and of suing and being sued; and
- (d) has 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, the common seal of the Minister will be taken, in the absence of proof to the contrary, to have been duly affixed to that document.

Delegation by Minister

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

- (a) the Chief Executive Officer or the person for the time being holding or acting in some other position in the Department; or
- (b) the person for the time being holding or acting in a position or office established by the Minister under section 9 or 15; or
- (c) the person for the time being holding or acting in the position of presiding member of an advisory committee appointed by the Minister under section 10A,

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

(2) A delegation under this section may be given subject to such conditions as the Minister thinks fit and specifies in the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the Minister from acting personally in any matter.

General powers of the Minister

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

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

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

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

(5) The Minister may—

- (a) make available, on such conditions as the Minister thinks fit, any land, buildings, equipment or facilities for the purposes of technical and further education;
- (b) provide assistance to community bodies (whether by the making of grants or loans or otherwise) on conditions that secure for colleges rights to make use of land, buildings, equipment or facilities of the bodies.

(6) The Minister may employ such persons (in addition to officers appointed under this Act and employees in the Department) as he or she considers necessary for the proper administration of this Act.

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

(8) Where land, buildings, equipment, facilities or services used or provided for or incidentally to the provision of technical and further education can, in the opinion of the Minister, also be used or provided for commercial, community or other purposes without substantially detracting from the provision of technical and further education, the Minister may, by lease, licence or other arrangement, authorise their use or provision for those other purposes.

(9) The Minister may—

- (a) in order to provide students with practical training and experience in the course of technical and further education—
 - (i) establish or carry on an enterprise or activity, for commercial, community or other purposes, in which students are to participate;
 - (ii) provide for the participation of students, on such conditions as the Minister thinks fit, in a commercial, community or other enterprise or activity carried on by some other person or body;
- (b) provide consultancy or other services, for a fee or otherwise, in any area in which officers or employees appointed under this Act or employed in the Department have particular expertise developed (whether wholly or partly) in the course of, or incidentally to, the provision of technical and further education;

- (c) undertake or provide for the development or use, for commercial, community or other purposes, of any intellectual property, product or process created or developed (whether wholly or partly) in the course of, or incidentally to, the provision of technical and further education.

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Advisory committees

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

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

(3) An advisory committee must—

- (a) investigate and report to the Chief Executive Officer on such matters related to technical and further education or the administration of this Act as the Minister may request; and

- (b) perform any other function assigned to the committee by the Minister.

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

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Powers, functions and duties of the Chief Executive Officer

12. (1) The Chief Executive Officer is responsible to the Minister—

- (a) for maintaining a proper standard of efficiency and competency among officers and employees; and

- (b) for the efficient and effective management of officers and employees; and

- (c) for ensuring that all resources available for technical and further education are managed with the object of securing the highest practicable standards of instruction, training, facilities and services for students enrolled in courses conducted under this Act.

(2) The responsibilities imposed under subsection (1) are in addition to the responsibilities of the Chief Executive Officer in respect of the Department.

(3) The Chief Executive Officer has such powers, functions and duties—

- (a) as are vested in and imposed on the Chief Executive Officer under this or any other Act; or

- (b) as the Chief Executive Officer is directed to exercise or perform by the Minister.

Delegation by Chief Executive Officer

13. (1) The Chief Executive Officer may, by instrument in writing and with the consent of the Minister, delegate to—

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- (a) the person for the time being holding or acting in a position or office in the Department or established by the Minister under section 9 or 15; or
- (b) the person for the time being holding or acting in the position of presiding member of an advisory committee appointed by the Minister under section 10A,

any of the powers, functions or duties of the Chief Executive Officer under this Act.

(2) A delegation under this section may be given subject to such conditions as the Chief Executive Officer thinks fit and specifies in the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the Chief Executive Officer from acting personally in any matter.

Annual report

14. (1) The Chief Executive Officer must, on or before 31 March in each year, present to the Minister a report on the operations of the Department and colleges for the preceding calendar year.

(2) The Minister must, within six sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

**PART 3
OFFICERS**

DIVISION 1—APPOINTMENT

Appointment of officers

15. (1) Subject to this Act, the Minister may appoint such officers to provide technical and further education and undertake related functions pursuant to this Act as he or she thinks fit.

(2) An officer may be appointed under this section—

(a) on a permanent or temporary basis; and

(b) on a full-time or part-time basis.

(3) An appointment under this section may be made on probation.

(4) The probation will 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 may be dismissed, retrenched or retired, or have his or her appointment otherwise terminated, except in accordance with the provisions of this Act.

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

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DIVISION 2—TERMINATION OF APPOINTMENT

Termination of appointment of officers on probation

15A. The Minister may by written determination at any time terminate the appointment of an officer who is on probation.

Retrenchment of officers

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

(a) the volume of work for officers in a section has diminished; and

(b) in consequence a reduction in the number of officers 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 or her hand, retrench that officer as from a date specified in the determination.

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

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

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

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Incapacity of officers

17. (1) If the Chief Executive Officer 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 Chief Executive Officer may do one or more of the following:

- (a) by written determination, transfer the officer to some other office established under section 15;
- (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);
- (d) recommend to the Minister that the officer be retired.

(2) The Chief Executive Officer 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 Chief Executive Officer 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.

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Appeal against termination, retrenchment, transfer or retirement

17A. (1) An officer may, within 14 days after receiving notice of a determination or decision under this Division to terminate the officer's appointment or retrench, transfer or retire the officer, appeal to the Appeal Board against the determination or decision.

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

DIVISION 3—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 Chief Executive Officer 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 Chief Executive Officer, 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);

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

(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 Chief Executive Officer may authorise payment to an officer on long service leave of such additional salary or allowances as the Chief Executive Officer considers appropriate.

Payment in lieu of long service leave

21. (1) Where a person ceases to be an officer 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 is re-employed as an officer—

- (a) at any time after his or her service as an officer was interrupted by retirement on the ground of incapacity; or
(b) within two years after his or her service as an officer was interrupted otherwise than by resignation, dismissal for misconduct or retirement on the ground of incapacity,

the person's effective service before the interruption and his or her effective service after the interruption will, for the purposes of this Division, be taken into account as if the service were continuous.

(2) Where a person is re-employed as an officer more than two years after his or her service as an officer was interrupted otherwise than by resignation, dismissal for misconduct or retirement on the ground of incapacity, the Minister may grant a certificate under this section.

(3) Where the Minister grants a certificate under subsection (2), the person's effective service before the interruption and his or her effective service after the interruption will, for the purposes of this Division, be taken into account as if the service were continuous.

(4) Where long service leave has been granted, or payment has been made in lieu of long service leave, in respect of a period of effective service that is required by this section to be taken into account as if it were continuous with subsequent service, the officer's entitlement to long service leave in respect of the total period of his or her effective service will be taken to have reduced accordingly.

Recognition of previous employment

23. (1) Where an officer was in prescribed employment prior to being appointed as an officer and there is continuity of service between that prescribed employment and his or her effective service as an officer, the long service leave to which he or she is entitled under this Act must, subject to this section, be determined on the basis that the period of his or her service that would have been taken into account for the purpose of determining his or her entitlement to long service leave in respect of the prescribed employment, as at the cessation of that employment, was effective service as an officer.

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

- (a) employment in the Public Service of the Commonwealth; and
- (b) employment in the Public Service of this State; and
- (c) employment by the Government of this State otherwise than as an employee in the Public Service; and
- (d) employment in the Public Service of another State or a Territory of the Commonwealth; and
- (e) employment by a University established in this State; and
- (f) any other employment approved by the Minister.

(3) Where long service leave has been granted, or payment has been made in lieu of long service leave, in respect of a period of service in prescribed employment required by this section to be regarded as effective service as an officer, the officer's entitlement to long service leave in respect of the total period of his or her effective service will be taken to have reduced accordingly.

(4) For the purposes of this section, continuity of service is not interrupted by an interval, not exceeding three months, between the cessation of prescribed employment and the commencement of employment as an officer.

(5) Where there is an interval of more than three months between the cessation of prescribed employment and the commencement of employment as an officer, the Minister may, if he or she thinks that special reasons exist for so doing, declare that the interval does not disrupt the continuity of service for the purposes of this section, and such a declaration has effect according to its terms.

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Recognition of service as officer in future employment

24. (1) Where an officer is transferred to other employment in the Government of this State and his or her service in that employment is continuous with his or her effective service as an officer, the long service leave to which he or she is entitled in respect of that other employment must, subject to this section, be determined on the basis that—

- (a) his or her effective service as an officer; and
- (b) any service required under section 23 to be regarded as effective service as an officer in determining his or her long service leave entitlement under this Act,

was service in that other employment.

(2) Where long service leave has been granted, or payment has been made in lieu of long service leave, in respect of a period of effective service as an officer (or a period required to be regarded as effective service as an officer), the person's entitlement to long service leave in respect of the total period of his or her service will be taken to have reduced accordingly.

DIVISION 4—RETIRING AGE

Retiring age

25. (1) An officer may retire on or after the day on which he or she reaches the age of 55 years.

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DIVISION 5—DISCIPLINE

Disciplinary action

26. (1) If an officer—

- (a) contravenes or fails to comply with any provision of this Act; or
- (b) contravenes or fails to comply with any lawful direction given to the officer under this Act; or
- (c) is negligent, inefficient or incompetent in the discharge of his or her duties; or
- (d) is absent from duty without proper cause; or
- (e) is guilty of any disgraceful or improper conduct,

there is sufficient cause for disciplinary action against that officer.

(2) Where the Chief Executive Officer finds that there is sufficient cause for disciplinary action under this section, he or she may—

- (a) by written determination under his or her hand—
 - (i) reprimand the officer; or

- (ii) impose a fine on the officer not exceeding the amount of one week's salary of the officer; or
- (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) recommend to the Minister that the officer be dismissed.

(3) The Minister may, upon receipt of a recommendation under subsection (2), dismiss the officer.

(4) An officer may, within fourteen days after he or she receives notice of a determination under this section, or a decision made by the Minister to dismiss the officer 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 as an officer 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 Chief Executive Officer, the nature or circumstances of any matter alleged against an officer are such that the officer should not continue in the performance of his or her duties, the Chief Executive Officer may suspend the officer.

(2) A suspension under subsection (1) 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 is entitled to his or her salary in respect of the period of suspension.

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

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**PART 4
COLLEGE COUNCILS**

Establishment of College Councils

- 28.** (1) The Minister may establish a council for any college.
- (2) The Minister may establish an interim council for any proposed college.
- (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—
- (a) is a body corporate with perpetual succession and a common seal; and
- (b) is capable of holding and dealing with real and personal property; and
- (c) is capable of acquiring or incurring any other legal rights or obligations, and of suing and being sued; and
- (d) holds its property on behalf of the Crown; and
- (e) has such powers, authorities, duties and obligations as may be conferred, imposed or prescribed by or under this Act.
- (2) A council must 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—
- (a) with the approval of the Treasurer; and
- (b) in accordance with any administrative instruction issued by the Chief Executive Officer under this section,
- borrow money from any person for the purposes of paying in whole or in part for the erection or construction of a building or structure, or the provision of equipment or facilities, for a college.
- (2) The Chief Executive Officer may from time to time issue administrative instructions relating to the borrowing of money by councils.
- (3) The Chief Executive Officer may vary or revoke an administrative instruction given under this section.

(4) A council must supply the Minister, the Treasurer or the Chief Executive Officer with such information relating to a loan or proposed loan under this section, or to the purposes of such a loan or proposed loan, as the Minister, Treasurer or Chief Executive Officer requires.

Power of Minister to make grant or loan

31. The Minister may, on such terms and conditions as he or she thinks fit, make a grant or loan of money to a council.

Accounts

32. (1) A council must cause proper accounts to be kept of any money received by it and any dealings with that money.

(2) The Chief Executive Officer or any person authorised by the Chief Executive Officer may at any time inspect or audit the accounts of a council.

Returns

32A. (1) A council must, within three months after the end of each calendar year, provide to the Chief Executive Officer, in a manner and form approved by the Chief Executive Officer, a return relating to the financial position of the council.

(2) A return under this section must specify—

- (a) the money received by the council, whether by grant, loan or otherwise, during the calendar year just ended; and
- (b) the money expended by the council during that calendar year; and
- (c) the money currently held by the council; and
- (d) any money owed to or by the council; and
- (e) such other information as the Chief Executive Officer may require.

(3) The Chief Executive Officer may, by notice in writing, require a council to provide, within a time specified in the notice, such return or further or fuller return relating to the financial position of the council as the Chief Executive Officer requires.

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), the Minister may dispose of the assets of the council in such manner as he or she thinks proper.

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**PART 6
MISCELLANEOUS**

Special provisions relating to rate of remuneration for part-time officers

39A. (1) Where an officer is employed on a part-time basis (that is to say, on the basis that he or she will work in any pay period a specified percentage of the time ordinarily expected of an officer employed on a full-time basis) the rate of remuneration applicable to the officer (including any allowances that may be payable) is that same percentage applied to the rate of remuneration that would apply if he or she were employed on a full-time basis.

(2) Subject to subsection (3), subsection (1)—

- (a) applies in relation to salary, notwithstanding any Act or law (including the provisions of any contract of employment, award or industrial agreement) to the contrary; and
- (b) applies in relation to an allowance, subject to any express provision of a contract of employment, award or industrial agreement that provides for payment of the full amount of the allowance to the officer; and
- (c) applies regardless of the number of working days, and the period of time in any one day, over which the officer performs the required amount of work in any pay period; and
- (d) applies in relation to any past or present entitlement to remuneration, whether it arose before or arises after the commencement of this section.

(3) Nothing in this section affects the payment in full of any allowance to an officer employed on a part-time basis if—

- (a) the payment was made before the commencement of this section; or
- (b) the payment is made after the commencement of this section in respect of an allowance that was being paid in full immediately prior to that commencement.

Requirement to leave college premises

40. (1) A person who is on the premises of a college without lawful authority must leave the college premises if lawfully requested to do so.

Penalty: Division 9 fine.

(2) A request to leave the premises of a college is lawful—

- (a) if made by—
 - (i) an officer or employee appointed under this Act or employed in the Department; or
 - (ii) a member of the council of the college; or
 - (iii) a person engaged by the Minister for the protection of property of the college; or
 - (iv) any person, or person of a class, authorised by the Chief Executive Officer to make such requests; and

- (b) if the person making the request advises the person of whom the request is made that he or she is authorised under this Act to make such a request.

(3) In any proceedings for an offence against this Act, an apparently genuine document purporting to be under the hand of the Chief Executive Officer and to certify that a specified person was at a specified time authorised by or under this section to request persons to leave college premises must be accepted as proof of the matters so certified in the absence of proof to the contrary.

Insulting officers, employees, etc.

40A. A person who behaves in an offensive or insulting manner—

- (a) to an officer or employee appointed under this Act or employed in the Department who is acting in the course of his or her duties; or
- (b) to a person referred to in section 40 who is exercising the power conferred by that section,

is guilty of an offence.

Penalty: Division 9 fine.

Summary offences

41. (1) Offences against this Act are summary offences.

(2) Proceedings for an offence against this Act must 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 or her consent to the commencement of the proceedings must be accepted as proof of that consent in the absence of proof to the contrary.

* * * * *

Regulations

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

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

- (a) the establishment, maintenance and control of colleges by the Minister under this Act and the management of all land, buildings, equipment or facilities used in connection therewith; and
- (b) the provision of residences or other accommodation for officers; and
- (c) the terms and conditions upon which officers or officers of any class are employed under this Act, their rights to leave of absence and any other privileges, their rights on retirement from employment under this Act and any other matter whatsoever affecting their employment; and

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- (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; and
- (da) the fees to be paid for or in relation to—
 - (i) instruction, training or assessment of students; and
 - (ii) assessment and certification of qualifications whether or not relating to instruction or training under this Act; and
 - (iii) land, buildings, equipment, facilities or services used or provided under this Act; and
- (e) the provision of grants to colleges and the conditions applicable to those grants; and
- (f) the establishment of scholarships and the provision of allowances to students; and
- (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; and
- (h) the use of the land, buildings, equipment or facilities of colleges; and

* * * * *

- (ia) regulating, restricting or prohibiting the driving, parking or ranking of vehicles on the grounds of any college; and
- (ib) providing evidentiary presumptions in relation to offences against regulations made under paragraph (ia) and providing for the expiation of such offences; and
- (j) the furnishing of returns to the Chief Executive Officer by the head of a college, and the matters to be contained in any such returns; and
- (k) providing for the constitution of associations of students, or students and staff, of colleges; and
- (l) conferring upon officers a right of appeal to the Appeal Board against administrative acts or decisions of the Minister or the Chief Executive Officer (not being administrative acts or decisions declared by the regulations to be excluded from appeal); and

* * * * *

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

(2a) A regulation made under subsection (2)(da)—

- (a) may—
 - (i) fix fees (including differential fees);

- (ii) regulate the payment of a fee;
- (iii) provide for exemption (in whole or in part) from the liability to pay a fee;
- (iv) provide for the refund, in whole or in part, of a fee,

or may empower the Minister or another person or body to do so; and

(b) may provide for the recovery of a fee.

(3) A regulation made under this Act is not 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 a division 10 fine for breach of, or non-compliance with, any provision of the regulation.

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SCHEDULE

Interpretation of other Acts and instruments

References to officers of the teaching service

1. A reference in an Act or in any other instrument (whether the instrument is of a legislative character or not) to an officer of the teaching service under this Act will be construed as a reference to an officer.

APPENDIX 1

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

*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 2:	repealed by 7, 1992, Sched.
Section 3:	amended by 94, 1983, s. 5; repealed by 7, 1992, Sched.
Section 4:	redesignated as s. 4(1) by 13, 1979, s. 3 definition of "the Appeal Board" amended by 7, 1992, Sched. definition of "Chief Executive Officer" inserted by 7, 1992, s. 3(a) 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); amended to read as definition of "college" by 7, 1992, s. 3(b) definition of "the Director-General" amended by 94, 1983, s. 6(b); repealed by 7, 1992, s. 3(c) definition of "council" inserted by 7, 1992, s. 3(c) definition of "the Department" substituted by 94, 1983, s. 6(c); amended by 7, 1992, s. 3(d) definition of "employee" inserted by 7, 1992, s. 3(e) definition of "further education" repealed by 94, 1983, s. 6(d) definition of "the Minister" amended by 48, 1990, s. 3 definition of "officer" inserted by 7, 1992, s. 3(f) 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; 7, 1992, s. 3(g)
Section 4(3):	inserted by 13, 1979, s. 3
Section 5:	amended by 13, 1979, s. 8; 94, 1983, s. 7; 7, 1992, s. 4, Sched.
Section 6(1):	amended by 7, 1992, s. 5(a), Sched.
Section 6(2):	amended by 13, 1979, s. 9; 94, 1983, s. 8; repealed by 7, 1992, s. 5(b)
Section 7:	amended by 7, 1992, Sched.
Section 8:	amended by 48, 1990, s. 4; substituted by 7, 1992, s. 6
Section 9(1):	amended by 94, 1983, s. 9(a); 7, 1992, s. 7(a), Sched.
Section 9(2):	amended by 94, 1983, s. 9(a); 7, 1992, s. 7(b), (c), Sched.
Section 9(3):	amended by 94, 1983, s. 9(b); 7, 1992, s. 7(d), Sched.
Section 9(4):	amended by 94, 1983, s. 9(a); 7, 1992, s. 7(e), Sched.

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Section 9(5):	amended by 94, 1983, s. 9(a); substituted by 7, 1992, s. 7(f)
Section 9(6):	substituted by 7, 1992, s. 7(f)
Section 9(7):	amended by 7, 1992, Sched.
Section 9(8) and (9):	inserted by 7, 1992, s. 7(g)
Section 10:	substituted by 94, 1983, s. 10; repealed by 119, 1986, Sched. 1
Section 10A:	inserted by 94, 1983, s. 10
Section 10A(1) and (2):	amended by 7, 1992, Sched.
Section 10A(3):	substituted by 7, 1992, s. 8
Section 10A(4):	amended by 7, 1992, Sched.
Section 11:	amended by 94, 1983, s. 11; repealed by 7, 1992, s. 9
Section 12:	substituted by 7, 1992, s. 9
Section 13:	amended by 48, 1990, s. 5; substituted by 7, 1992, s. 9
Section 14:	substituted by 7, 1992, s. 9
Headings preceding section 15:	substituted by 7, 1992, s. 10
Section 15(1):	amended by 7, 1992, s. 11(a), Sched.
Section 15(2) and (3):	substituted by 7, 1992, s. 11(b)
Section 15(4):	amended by 13, 1979, s. 10, 7, 1992, Sched.
Section 15(5):	amended by 36, 1980, s. 2(a); 7, 1992, s. 11(c)
Section 15(6):	amended by 36, 1980, s. 2(b); 7, 1992, Sched.
Section 15(7):	repealed by 34, 1991, s. 54(b)
Heading preceding section 15A:	substituted by 7, 1992, s. 12
Section 15A:	inserted by 7, 1992, s. 13
Section 16(1):	amended by 7, 1992, s. 14(a), (b), Sched.
Section 16(2):	amended by 7, 1992, Sched.
Section 16(3) and (4):	repealed by 7, 1992, s. 14(c)
Section 17:	substituted by 48, 1990, s. 6
Section 17(1):	amended by 7, 1992, s. 15(a)-(d)
Section 17(2):	amended by 7, 1992, s. 15(e)
Section 17(3):	amended by 7, 1992, s. 15(f)
Section 17(5):	amended by 7, 1992, s. 15(g)
Section 17(6) and (7):	repealed by 7, 1992, s. 15(h)
Section 17A:	inserted by 7, 1992, s. 16
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 20(2):	amended by 7, 1992, s. 17(a)
Section 20(4):	amended by 7, 1992, s. 17(b)
Section 20(5):	amended by 7, 1992, s. 17(c)
Section 20(8):	amended by 7, 1992, s. 17(d)
Section 21:	amended by 13, 1979, s. 7; substituted by 62, 1987, s. 4
Section 21(1):	amended by 7, 1992, s. 18
Sections 22 - 24:	substituted by 7, 1992, s. 19
Section 25(1):	substituted by 36, 1980, s. 3; amended by 7, 1992, s. 20(a), Sched.; 75, 1993, s. 28
Section 25(1a):	inserted by 36, 1980, s. 3; repealed by 7, 1992, s. 20(b)
Section 25(2):	repealed by 7, 1992, s. 20(b)
Section 26(1):	amended by 7, 1992, Sched.
Section 26(2):	amended by 13, 1979, s. 11; 7, 1992, s. 21(a), (b), Sched.
Section 26(3):	amended by 7, 1992, s. 21(c)
Section 26(4):	amended by 7, 1992, Sched.
Section 26(5):	amended by 7, 1992, s. 21(d)
Section 27(1):	amended by 7, 1992, s. 22, Sched.
Section 27(2) - (4):	amended by 7, 1992, Sched.
Section 28(1):	amended by 94, 1983, s. 12; 7, 1992, s. 23(a)
Section 28(2):	amended by 94, 1983, s. 12; 7, 1992, s. 23(b)
Section 28(3) and (4):	substituted by 25, 1988, s. 3
Section 28(5):	inserted by 25, 1988, s. 3
Section 29(1):	substituted by 7, 1992, s. 24

Section 29(2):	amended by 7, 1992, Sched.
Sections 30 and 31:	substituted by 7, 1992, s. 25
Section 32(1):	amended by 7, 1992, s. 26(a), Sched.
Section 32(2):	amended by 7, 1992, s. 26(b), (c), Sched.
Section 32A:	inserted by 7, 1992, s. 27
Section 33(2):	amended by 7, 1992, Sched.
	Part 5 comprising ss. 34 - 39 and heading amended by 13, 1979, ss. 12 - 14; 36, 1980, s. 4; 94, 1983, ss. 13 - 15; repealed by 7, 1992, s. 28
Section 39A:	inserted by 7, 1992, s. 29
Section 40:	substituted by 7, 1992, s. 29
Section 40A:	inserted by 7, 1992, s. 29
Section 41(1):	substituted by 7, 1992, Sched.
Section 41(2) and (3):	amended by 7, 1992, Sched.
Section 42:	repealed by 7, 1992, s. 30
Section 43(1):	amended by 7, 1992, Sched.
Section 43(2):	amended by 13, 1979, s. 14; 36, 1980, s. 4; 94, 1983, s. 16; 7, 1992, s. 31(a)-(p), Sched.
Section 43(2)(i):	repealed by 7, 1992, s. 31(k)
Section 43(2)(m):	repealed by 7, 1992, s. 31(p)
Section 43(2a):	inserted by 7, 1992, s. 31(q)
Section 43(3):	amended by 7, 1992, Sched.
Section 43(4):	amended by 7, 1992, s. 31(r)
Schedule:	inserted by 7, 1992, s. 32

Technical and Further Education Act 1975**APPENDIX 2****DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.