

# **SOUTH AUSTRALIAN BOARD OF ADVANCED EDUCATION ACT, 1972**

## **SUMMARY OF PROVISIONS**

### **PART I**

#### **PRELIMINARY**

**Section**

- 1 Short title.
- 2 Commencement.
- 3 Arrangement of Act.
- 4 Interpretation.
- 5 Declaration of colleges of advanced education.

### **PART II**

#### **ADMINISTRATION**

- 6 Constitution of the Board.
- 7 The Chairman.
- 8 Membership of the Board.
- 9 Conditions of membership.
- 10 Convening of meetings of the Board.
- 11 Quorum, etc.
- 12 Saving provision.
- 13 Allowances, etc.

### **PART III**

#### **POWERS AND FUNCTIONS OF THE BOARD**

- 14 General principles to be observed by the Board.
- 15 General review by the Board.
- 16 Accreditation of courses.
- 17 Recommendations upon financial matters.

### **PART IV**

#### **MISCELLANEOUS**

- 18 Committees.
- 19 Officers and servants.
- 20 Officers, etc., not to be subject to Public Service Act.
- 21 Superannuation.
- 22 Report of Board.
- 23 Accounts and audit.
- 24 Financial provision.
- 25 Regulations.

## SOUTH AUSTRALIAN BOARD OF ADVANCED EDUCATION ACT, 1972

being

South Australian Board of Advanced Education Act, 1972, No. 47 of 1972 [Assented to 20th April, 1972]<sup>1</sup>.

**An Act to establish a Board of Advanced Education; to define its powers and functions; 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

PART I

#### PRELIMINARY

1. This Act may be cited as the "South Australian Board of Advanced Education Act, 1972". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>. Commence-  
ment.

3. This Act is arranged as follows:—

Arrangement of  
Act.

PART I—PRELIMINARY

PART II—ADMINISTRATION

PART III—POWERS AND FUNCTIONS OF THE BOARD

PART IV—MISCELLANEOUS.

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

Interpretation.

"accredit" in relation to a course of advanced education, or an affiliated course, means—

(a) to recognize and approve that course;

and

(b) to recognize and approve the award of any specific degree, diploma or other award to those who may successfully complete that course of advanced education:

"advanced education" means education at a tertiary level of the kind provided by colleges of advanced education:

"affiliated college" means a college, institute, body or department (not being a University or college of advanced education) by which an affiliated course is provided:

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<sup>1</sup> Came into operation 1st July, 1972: *Gaz.* 22nd June, 1972, p. 2632.

- “affiliated course” means a course of advanced education provided otherwise than at a college of advanced education;
- “appointed member” means a member of the Board appointed by the Governor under paragraph (i) or (j) of subsection (1) of section 8 of this Act;
- “elected member” means a member of the Board elected under paragraph (g) or (h) of subsection (1) of section 8 of this Act;
- “college of advanced education” means a college, institute, body or department (not being a University) declared by proclamation to be a college of advanced education;
- “course of advanced education” means a course of advanced education provided at a college of advanced education;
- “the Board” means the South Australian Board of Advanced Education constituted under this Act;
- “the Chairman” means the person for the time being holding the office of Chairman of the Board under this Act;
- “the Minister” means the Minister of Education or any other Minister of the Crown to whom the administration of this Act is for the time being committed.

Declaration of colleges of advanced education.

5. The Governor may, by proclamation—

- (a) declare any existing or proposed college, institute, body or department to constitute a college of advanced education;
- or
- (b) vary or revoke any proclamation previously made under this section.

PART II

PART II

ADMINISTRATION

Constitution of the Board.

6. (1) There shall be a board entitled the “South Australian Board of Advanced Education”.

(2) The Board—

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) shall be capable in its corporate name of acquiring, holding and disposing of, real and personal property;
- (c) shall be capable of acquiring or incurring any other legal rights or liabilities, and of suing and being sued;
- (d) shall hold its property on behalf of the Crown;
- and
- (e) shall have the powers, authorities, duties and obligations prescribed by or under this Act.

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

7. (1) The Governor may, by instrument published in the *Gazette*, appoint a suitable person to be Chairman of the Board.

(2) The Chairman shall be the principal executive officer of the Board.

(3) The Chairman shall be appointed for a term of office, not exceeding seven years, specified in the instrument of his appointment, and shall, subject to this section, be eligible for re-appointment upon the expiration of his term of office.

(4) Where, in the opinion of the Governor, there are special circumstances justifying him in so doing, he may, by instrument published in the *Gazette*, extend the term of office of the Chairman.

(5) Subject to this section, the salary of the Chairman, and the terms and conditions upon which he holds office shall be as determined by the Governor.

(6) A person who is of, or above, the age of sixty-five years shall not be eligible for appointment or re-appointment as Chairman of the Board.

(7) The Governor may remove the Chairman from office upon the presentation of an address by both Houses of Parliament praying for his removal.

(8) The Governor may, at any time, suspend the Chairman from office on the ground of his incompetence or misbehaviour and upon such suspension—

(a) a full statement of the reason for the suspension shall be laid before both Houses of Parliament within six sitting days, if Parliament is then in session or if not, within six sitting days of the commencement of the next session of Parliament;

and

(b) if within one month of the statement being laid before Parliament, neither House of Parliament presents an address to the Governor praying for the removal of the Chairman from office, he shall be restored to office, but if either House does present such an address, the Governor may remove him from office.

(9) The office of the Chairman shall become vacant if—

(a) he dies;

(b) he resigns by written notice addressed to the Governor, or his term of office expires;

(c) he is removed from office by the Governor under subsection (7) or subsection (8) of this section;

(d) he engages, without the consent of the Minister, in any other remunerated employment;

(e) he is convicted of an indictable offence or sentenced to imprisonment for an offence;

(f) he becomes a member of the Parliament of the State or the Commonwealth;

or

(g) he becomes, in the opinion of the Governor, incapable by reason of physical or mental illness, of performing his functions and duties under this Act.

(10) Except as provided in this section, the Chairman shall not be removed from office, nor shall the office of the Chairman become vacant.

## 8. (1) The Board shall consist of the following members:—

- (a) the Chairman;
- (b) the Director-General of Education, or a person nominated by him;
- (c) the Director of Further Education, or a person nominated by him;
- (d) the Vice-Chancellor of The University of Adelaide, or a member of the academic staff of that University nominated by him after consultation with the Minister;
- (e) the Vice-Chancellor of The Flinders University of South Australia, or a member of the academic staff of that University nominated by him after consultation with the Minister;
- (f) the Director of the South Australian Institute of Technology, or a member of the academic staff of that Institute nominated by the Director;
- (g) two principals of colleges of advanced education (other than the South Australian Institute of Technology) elected by the principals of those colleges;
- (h) two persons elected from amongst their own membership by the full-time academic staff of the colleges of advanced education of whom—
  - (i) one shall be elected by the academic staff of the South Australian Institute of Technology and the Roseworthy Agricultural College;
- and
- (ii) one shall be elected by the academic staff of the other colleges of advanced education;
- (i) one person with extensive experience of primary or secondary education nominated after consultation with the South Australian Institute of Teachers by the Minister and appointed by the Governor;
- and
- (j) four persons who are not professionally engaged in educational institutions, appointed by the Governor.

(2) If for any reason a member of the Board is unable, or fails, to act in his capacity as a member of the Board, the Governor may appoint a suitable person to be a deputy of that member, and such a person, while so acting, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) Where any persons, who are entitled under this Act to make an election of members of the Board, and have been requested to do so by the Minister, fail to comply with that request, the Governor may appoint, in place of such members, suitable persons as members of the Board and any persons so appointed shall be deemed to be elected members of the Board.

9. (1) The office of a member of the Board (other than an elected or appointed member) shall become vacant if he ceases to hold the office by virtue of which he became entitled to membership of the Board, or his nomination as a member of the Board is revoked by the person by whom he

was nominated, or by any other person for the time being holding the office by virtue of which the nomination was made.

(2) Subject to this Act, an elected or appointed member of the Board shall hold office for a term of two years and upon the expiration of his term of office, shall be eligible for re-election or re-appointment.

(3) The office of an elected member shall become vacant if he ceases to hold the qualification under which he was eligible for election as a member of the Board.

(4) The Governor may remove an elected or appointed member of the Board from office for—

(a) mental or physical incapacity;

(b) neglect of duty;

(c) dishonourable conduct;

or

(d) any other cause considered sufficient by the Governor.

(5) The office of an elected member or an appointed member of the Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns his office by written notice addressed to the Governor;

or

(d) he is removed from office by the Governor pursuant to subsection (4) of this section.

10. The Minister, or the Chairman, may at any time convene a meeting of the Board. Convening of meetings of the Board.

11. (1) Eight members of the Board shall constitute a quorum of the Board, and no business shall be transacted unless a quorum is present. Quorum, etc.

(2) The Chairman shall preside at each meeting of the Board at which he is present.

(3) In the absence of the Chairman from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(4) A decision carried by a majority of the votes cast by the members present at a meeting of the Board shall be a decision of the Board.

(5) Each member present at a meeting of the Board shall be entitled to one vote on any matter arising for decision at that meeting, and, in the event of an equality of votes, the person presiding shall have a second or casting vote.

(6) Subject to this Act, the business of the Board shall be conducted in such manner as the Board may determine.

12. (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy or vacancies in its membership, and notwithstanding the subsequent discovery of a defect in the election or appointment of a member or purported member of the Board, any such act or proceeding shall be as valid and effectual as if that member or purported member had been duly elected or appointed. Saving provision.

(2) No liability shall attach to a member of the Board, for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

Allowances,  
etc.

13. A member of the Board shall be entitled to receive such allowances and expenses as may be determined by the Minister.

PART III

PART III

POWERS AND FUNCTIONS OF THE BOARD

General  
principles to be  
observed by the  
Board.

14. (1) The Board shall in the exercise and discharge of its powers and functions under this Act, act in the furtherance of the following objectives:—

- (a) the promotion, development and co-ordination of advanced education in this State;
  - (b) the promotion of a balanced system of advanced education in the State;
  - (c) the promotion of the public interest by the provision of education and technological training at an advanced level;
- and
- (d) the promotion of the interests of students at colleges of advanced education by the provision of courses of education and training appropriate to their chosen vocations, and calculated to achieve the fullest possible development of their capacity and aptitude for education and training.

(2) The Board shall, in the exercise and discharge of its powers and functions under this Act, collaborate where it is appropriate to do so with—

- (a) the governing bodies or principals of the colleges of advanced education;
- (b) The Australian Commission on Advanced Education;
- (c) The Australian Council on Awards in Advanced Education;
- (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.

General review  
by the Board.

15. (1) The Board shall—

- (a) keep under review all aspects of advanced education;
  - (b) promote or foster research into problems of advanced education;
  - (c) for the purpose of encouraging research into problems of advanced education, recommend in appropriate cases the award of scholarships and fellowships, and recommend the provision of financial assistance to institutions conducting or promoting such research;
- and
- (d) report to the Minister on any matters referred by him to the Board for advice.

(2) The Board shall, of its own motion, or at the request of the Minister or the governing body of a college of advanced education, make an investigation into any proposed extension of a college of advanced education, the amalgamation of colleges of advanced education, the division or subdivision of a college of advanced education, or into the feasibility of establishing further colleges of advanced education.

16. (1) The governing body of any college of advanced education or affiliated college may submit to the Board a memorandum— Accreditation of courses.

- (a) describing a course of advanced education or affiliated course that is provided or is to be provided at that college;
- (b) setting forth any degree, diploma or other award that may be conferred upon, or awarded to, those who undertake the course.

(2) The Board may—

- (a) accredit any such course subject to such conditions or modifications (if any) as it thinks fit;
- (b) refer the memorandum back to the college for consideration of any conditions or modifications suggested by the Board;

or

- (c) refuse to accredit the course.

(3) The Board may, by instrument in writing require the governing body of a college of advanced education to submit a memorandum under subsection (1) of this section in respect of any course or proposed course of advanced education at the college.

(4) The governing body of a college of advanced education shall comply with a requirement under subsection (3) of this section.

(5) The Board shall maintain a register of all accredited courses of advanced education and affiliated courses.

(6) The register shall be available for inspection at the office of the Board by any member of the public at such times as that office is open to the public.

(7) This section does not apply in respect of courses approved by the South Australian Technicians Certificate Board.

17. (1) The Board shall receive and review representations from the colleges of advanced education upon the following matters:— Recommendations upon financial matters.

- (a) the apportionment or allocation of the moneys available to the Government for the purposes of advanced education between the various colleges of advanced education;
- (b) any proposed re-apportionment or re-allocation of any such moneys;
- (c) any conditions upon which a grant of moneys to a college of advanced education should be made;
- (d) the conditions of appointment of, and the salaries to be paid to, the staff of colleges of advanced education declared by proclamation to be colleges to which this paragraph applies;

and

- (e) any other matters that the Board considers relevant to the administration of finance available for the purposes of advanced education.



(2) The Board shall, after considering any relevant submissions make representations to the Minister on the matters referred to in subsection (1) of this section.

(3) The Board may recommend to the Minister that moneys be not provided to a college of advanced education for the purpose of conducting a course that has not been accredited by the Board.

(4) The Governor may make, vary or revoke a proclamation for the purposes of paragraph (d) of subsection (1) of this section.

## PART IV

## PART IV

## MISCELLANEOUS

## Committees.

18. (1) For the purposes of this Act, the Board may appoint committees to investigate, and advise it upon, any aspect of tertiary education in this State.

(2) A committee appointed under this section shall consist of such persons as the Board thinks fit.

(3) The terms and conditions upon which a member of a committee holds office shall be as determined by the Board.

(4) A member of a committee appointed under this section shall be entitled to receive such allowances and expenses as may be determined by the Board and approved by the Minister.

## Officers and servants.

19. (1) The Board may, with the approval of the Minister, appoint such officers and servants as may be necessary or expedient for the due administration of this Act.

(2) The terms and conditions upon which any such person is employed shall be such as may be determined by the Board, and approved by the Minister.

## Officers, etc., not to be subject to Public Service Act.

20. No person appointed to any office or position under this Act shall, in respect of that office or position, be subject to the provisions of the Public Service Act<sup>1</sup>.

## Superannuation.

21. The Chairman, and any other person appointed to a salaried office or position under this Act shall be an employee within the meaning, and for the purposes, of the Superannuation Act<sup>2</sup>.

## Report of Board.

22. (1) The Board shall, on or before the thirty-first day of March in each year submit a report to the Minister upon the administration of this Act during the year ending on the preceding thirty-first day of December.

(2) The Minister shall cause a copy of each report under this section to be laid before each House of Parliament within fourteen sitting days of his receipt thereof, if Parliament is then in session, or if not, within fourteen sitting days of the commencement of the next session of Parliament.

## Accounts and audit.

23. (1) The Board shall cause proper accounts to be kept of all its financial transactions.

<sup>1</sup> This must be a reference to the Public Service Act, 1967, as amended (now Public Service Act, 1967-1975).

<sup>2</sup> This must be a reference to the Superannuation Act, 1969, as amended, which has since been repealed and superseded by the Superannuation Act, 1974.

(2) The Auditor-General may at any time, and shall at least once in any calendar year, audit the accounts of the Board and furnish the Minister with a report upon the audit.

(3) The Minister shall cause every report of the Auditor-General made in pursuance of subsection (2) of this section to be laid before each House of Parliament within six sitting days if Parliament is then in session, or if not, within six sitting days of the commencement of the next session of Parliament.

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

25. (1) The Governor may make such regulations as he considers necessary or expedient for the purposes of this Act. Regulations.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

- (a) prescribe the manner in which an election of members of the Board is to be held under this Act, and define the qualifications of the electors;
- (b) regulate the convening of meetings of the Board, or of committees appointed under this Act;
- (c) prescribe and provide for the payment of fees for any services provided by the Board under this Act.