

# Schedule 1

[Sections 20, 26 and 40]

## PROVISIONS RELATING TO THE BOARD, THE COUNCIL AND GOVERNING COUNCILS

### 1. Vacation of office

- (1) The office of a member becomes vacant if —
  - (a) the term of the member expires;
  - (b) the member resigns by written notice addressed to the Minister;
  - (c) the member is an undischarged bankrupt or a person whose property is subject to an arrangement under the laws relating to bankruptcy;
  - (d) the member is convicted of an indictable offence; or
  - (e) the appointment of the member is terminated under subclause (2).
- (2) The Minister may at his or her discretion terminate the appointment of a member at any time.

### 2. Leave of absence

The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

### 3. Meetings

- (1) The chairperson is to preside at any meeting at which the chairperson is present.
- (2) If the chairperson, and in the case of a governing council the deputy chairperson, is not present at a meeting the members present are to elect one of their number to preside at the meeting.
- (3) A quorum for a meeting is at least one half of the number of members or if a quorum cannot be present at a meeting because of the operation of clause 5, a quorum for that meeting is such number of members as the Minister may determine.
- (4) Any question arising at a meeting is to be decided by a majority of the votes of the members present and in the event of an equality of votes the chairperson, or the person presiding, is to have a casting as well as a deliberative vote.

### 4. Disclosure of interests

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the body of which he or she

is a member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the body.

Penalty: \$10 000.

- (2) The circumstances in which a person has a material personal interest in a matter being considered or about to be considered by a body include a case where an entity with which the member is associated may benefit from the body's decision on the matter.
- (3) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

## **5. Voting by interested members**

A member who has a material personal interest in a matter, within the meaning in clause 4, that is being considered by the body of which he or she is a member —

- (a) must not vote whether at a meeting or otherwise —
    - (i) on the matter; or
    - (ii) on a proposed resolution under clause 6 in respect of the matter, whether relating to that member or a different member;
  - and
  - (b) must not be present while —
    - (i) the matter; or
    - (ii) a proposed resolution of the kind referred to in paragraph (a) (ii),
- is being considered at a meeting.

## **6. Clause 5 may be declared inapplicable**

Clause 5 does not apply if the body has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

## Schedule 2

[Section 62]

### AMENDMENTS AND TRANSITIONAL PROVISIONS RELATING TO PART 7

**1.        *Industrial Relations Act 1979* amended**

*[to be inserted<sup>2</sup>]*

**2.        **Transitional****

*[to be inserted<sup>2</sup>]*

## CONSEQUENTIAL AMENDMENTS

**Division 1 — Amendments to the *Education Act 1928*****1. Principal Act**

In this Division the *Education Act 1928*\* is referred to as the principal Act.

*[\* Reprinted as at 11 August 1992.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 63-4 and Act No. 1 of 1995.]*

**2. Section 3 amended**

Section 3 of the principal Act is amended —

- (a) by deleting the definition of “Department of Training”;
- (b) in the definition of “Government school” by deleting “secondary school, technical college, or technical school” and substituting the following —

“

or secondary school

”; and

- (c) by repealing subsection (2).

**3. Section 7 amended**

Section 7 (5) of the principal Act is repealed.

**4. Section 8 amended**

Section 8 (2), (3) and (4) of the principal Act are repealed.

**5. Section 9 amended**

Section 9 of the principal Act is amended by deleting “, secondary, and technical” and substituting the following —

“

and secondary

”.

**6. Section 21C amended**

Section 21C of the principal Act is amended in the definition of “school” by deleting “other than a technical college or technical school”.

**7. Section 28 amended**

Section 28 (1) (g) of the principal Act is amended by deleting “, technical”.

**Division 2 — Amendments to the Building and Construction Industry Training Fund and Levy Collection Act 1990**

**8. Principal Act**

In this Division the *Building and Construction Industry Training Fund and Levy Collection Act 1990*\* is referred to as the principal Act.

[\* Act No. 76 of 1990.

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 22.]

**9. Section 3 amended**

Section 3 of the principal Act is amended by —

- (a) deleting the definition of “building and construction industry” and substituting the following —

“

**“building and construction industry”** has the same meaning as the term “construction industry” in the *Construction Industry Portable Paid Long Service Leave Act 1985*;

”;

- (b) in the definition of “project owner” by deleting the final semicolon and substituting a full stop; and
- (c) deleting the definition of “SESDA Act”.

**10. Section 8 amended**

Section 8 of the principal Act is amended —

- (a) in subsection (1), by deleting “and the council shall together” and substituting the following —

“

shall

”;

- (b) in subsection (3) (b), by deleting subparagraph (i) and substituting the following subparagraph —

“

- (i) courses or skills training programmes accredited in respect of the building and construction industry under the *Vocational Education and Training Act 1996*; or

”;

- (c) by repealing subsection (4) and substituting the following subsection —

“

- (4) The Board shall submit an operational plan, together with such other submissions (if any) that it considers appropriate, to the Minister for approval.

”; and

- (d) in subsection (9) —

- (i) by deleting the definitions of “Authority”, “council” and “skills formation”; and
- (ii) by deleting the semicolon at the end of the definition of “sectors” and substituting a full stop.

### **Division 3 — Amendments to the Industrial Training Act 1975**

#### **11. Principal Act**

In this Division the *Industrial Training Act 1975*\* is referred to as the principal Act.

[\* Act No. 95 of 1975.

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 103.]*

#### **12. Section 4 amended**

Section 4 (1) of the principal Act is amended by deleting the definition of “Authority”.

#### **13. Section 17A amended**

Section 17A (1) of the principal Act is amended by inserting after “section 17 (1)” the following —

“

or to any other person

”.

**14. Section 22 amended**

Section 22 of the principal Act is amended by deleting “Subject to the *State Employment and Skills Development Authority Act 1990*, the” and substituting the following —

“

The

”.

**15. Section 28 amended**

Section 28 (2) of the principal Act is amended by deleting “Subject to the *State Employment and Skills Development Authority Act 1990*, where a” and substituting the following —

“

Where a

”.

**16. Section 33 amended**

Section 33 of the principal Act is amended —

- (a) in subsection (1) (b) by deleting “training as is approved by the Authority” and substituting the following —

“

courses or skills training programmes as are accredited by the Training Accreditation Council under the *Vocational Education and Training Act 1996*

”.

and

- (b) in subsection (3), by deleting “syllabus approved by the Authority” and substituting the following —

“

course or skills training programme accredited by the Training Accreditation Council under the *Vocational Education and Training Act 1996*

”.

**17. Section 37D amended**

Section 37D (3) of the principal Act is amended by deleting “, but shall not provide for training in an apprenticeship trade or an industrial training trade”.

**18. Section 37E amended**

Section 37E of the principal Act is amended in subsections (1) and (2) by deleting “, the Authority or any other body established under the *State Employment and Skills Development Authority Act 1990*”.

**Division 4 — Amendments to the Secondary Education Authority Act 1984**

**19. Principal Act**

In this Division the *Secondary Education Authority Act 1984*\* is referred to as the principal Act.

[\* Act No. 118 of 1984.

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 192-3.]

**20. Section 3 amended**

Section 3 of the principal Act is amended —

- (a) by deleting the definition of “post-secondary education” and substituting the following definition —

“

**“post-secondary education”** means instruction or training or both but does not include —

- (a) the instruction or training of persons who have not attained school leaving age or of persons attending secondary education institutions; or
- (b) instruction or training provided by a training provider, or under a training scheme, under the *Vocational Education and Training Act 1996*.

”;

- (b) in the definition of “sub-committee” by deleting the semicolon and substituting a full stop; and
- (c) by deleting the definition of “technical college or school”.

**21. Section 6 amended**

Section 6 (2) of the principal Act is amended by deleting paragraph (d) and substituting the following paragraph —

“

- (d) 2 shall be persons nominated by the chief executive under the *Vocational Education and Training Act 1996*;

”.



**22. Section 25 amended**

Section 25 (3) of the principal Act is amended by deleting paragraph (h) and substituting the following paragraph —

“

- (h) 2 shall be persons nominated by the chief executive under the *Vocational Education and Training Act 1996*.

”.

**Division 5 — Other amendments**

**23. Constitution Acts Amendment Act 1899 amended**

Schedule V to the *Constitution Acts Amendment Act 1899*\* is amended in Part 3 —

- (a) by deleting “State Employment and Skills Development Authority and the Skills Standards and Accreditation Board established under the *State Employment and Skills Development Authority Act 1990*.”; and
- (b) by inserting in the appropriate alphabetical positions the following —

“

The State Training Board of Western Australia established under the *Vocational Education and Training Act 1996*.

”;

and

“

The Training Accreditation Council established under the *Vocational Education and Training Act 1996*.

”.

[\* Reprinted as at 17 May 1995.

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 43-6 and Acts Nos. 11, 14 and 73 of 1995.]

**24. Equal Opportunity Act 1984 amended**

Section 4 of the *Equal Opportunity Act 1984*\* is amended in the definition of “private educational authority” by deleting “*Colleges Act 1978*” and substituting the following —

“

*Vocational Education and Training Act 1996*

”.

[\* Act No. .

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 68.]

**25. Financial Administration and Audit Act 1985 amended**

Schedule 1 to the *Financial Administration and Audit Act 1985*\* is amended —

- (a) by deleting “College of Customised Training”, “Hedland College”, “Kalgoorlie College”, “Karratha College”, “Pundulmurra College” and “State Employment and Skills Development Authority”; and
- (b) by inserting after “Coal Mines Accident Relief Trust Fund” the following —

“

Colleges established or continued under the *Vocational Education and Training Act 1996*

”.

[\* Reprinted as at 1 July 1991.

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 74-5 and Acts Nos. 2, 11, 14, 24 and 73 of 1995 and Gazettes 18 August 1995, 19 September 1995 and 9 January 1996.]

**26. Government Employees Superannuation Act 1987 amended**

Schedule 1 to the *Government Employees Superannuation Act 1987*\* is amended —

- (a) in Part A by inserting as a separate paragraph after the paragraph relating to Hospital Boards the following —

“

Colleges established or continued under the *Vocational Education and Training Act 1996*.

”;

and

- (b) in Part B, by deleting “Hedland College”, “Kalgoorlie College”, “Karratha College” and “State Employment and Skills Development Authority (on and from 19 March 1991)”.

[\* Reprinted as at 3 October 1994.

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 89-90 and Acts Nos. 103 of 1994 and 11, 60, 62 and 73 of 1995 and Gazettes 15 September 1995 and 22 March 1996.]

**27. *Industrial Relations Act 1979* amended**

Section 7 (1) of the *Industrial Relations Act 1979*\* is amended in the definition of “post-secondary education institution” by deleting “*Colleges Act 1978*” and substituting the following —

“

Vocational Education and Training Act 1996

”.

[\* Reprinted as at 11 May 1994.

For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 102 and Acts Nos. 83 and 103 of 1994 and 1, 11, 30 and 79 of 1995.]

**28. *Parliamentary Commissioner Act 1971* amended**

The Schedule to the *Parliamentary Commissioner Act 1971*\* is amended —

- (a) by deleting “State Employment and Skills Development Authority and the Skills Standards and Accreditation Board and any industry employment and training council established under the *State Employment and Skills Development Authority Act 1990*.” and substituting the following —

“

State Training Board and the Training Accreditation Council established under the *Vocational Education and Training Act 1996*.

”,

and

- (b) by inserting after the item relating to the University of Western Australia the following item —

“

Colleges established or continued in operation under the *Vocational Education and Training Act 1996*

”.

[\* Reprinted as at 25 May 1995.

For subsequent amendments see Acts Nos. 1, 11, 30 and 73 of 1995.]

**29. *Public Sector Management Act 1994* amended**

Schedule 2 to the *Public Sector Management Act 1995*\* is amended —

- (a) by deleting items 18, 20, 21 and 38; and

(b) by inserting after item 3A the following item —

“

3B	Colleges established or continued in existence under the <i>Vocational Education and Training Act 1996</i>
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”.

*[\* Reprinted as at 16 May 1995.*

*For subsequent amendments see Acts Nos. 1 and 73 of 1995 and Gazettes 23 June 1995, 3 November 1995 and 30 May 1995.]*

### 1. Interpretation

In this Schedule —

“**asset**” means real or personal property of any kind including a chose in action and a present, future or contingent right, privilege, interest or power;

“**the College**” means the College of Customised Training established under the *Colleges Act 1978*;

“**document**” includes any disc, tape, or other device or medium in which information is stored.

### 2. Continuation of accreditation and registration

- (1) On the commencement of this clause any course of instruction or training which, immediately before that commencement was —
  - (a) provided by a college under the *Colleges Act 1978* or a technical school or technical college under the *Education Act 1928*; or
  - (b) an accredited skills formation under the *State Employment and Skills Development Authority Act 1990*,is to be taken to be accredited under this Act.
- (2) Subject to clause 5, on the commencement of this clause a college or a technical school or technical college which, immediately before that commencement was operating under the *Colleges Act 1978* or the *Education Act 1928* is to be taken to be a registered training provider under this Act.

### 3. Property to become vested in Minister

- (1) On the commencement of this clause all land and all other assets which were, immediately before that commencement —
  - (a) vested in the State Employment and Skills Development Authority established under the *State Employment and Skills Development Authority Act 1990*;
  - (b) vested in the Minister for Education under the *Education Act 1928* solely for the purposes of a technical school or technical college under that Act; or
  - (c) vested in a college established, or preserved and continued in existence, under the *Colleges Act 1978*,

become vested in the Minister to be used for the purposes of the State training system.

- (2) On the commencement of this clause all obligations and liabilities of the Authority, the Minister or a school or college referred to in subsection (1) become obligations and liabilities of the Minister.
- (3) Where immediately before the commencement of this clause the *Land Act 1933* applied to and in relation to land that vests in the Minister under this clause, that Act continues to apply to the land after the commencement as if the vesting had occurred under section 33 (2) of that Act.

#### **4. Colleges and technical colleges**

- (1) On the commencement of this clause —
  - (a) subject to clause 5, all colleges which were established, or continued in existence under the *Colleges Act 1978*; and
  - (b) all technical schools and technical colleges which were established or deemed to have been established under the *Education Act 1928*,and which were operating immediately before that commencement, are to be taken to be colleges established under this Act.
- (2) Until a governing council or interim governing council of a college referred to in subclause (1) (a) is established under this Act, the Council of that college immediately before the commencement of this clause is to be taken to be an interim governing council.
- (3) Until a notice is published under section 41 (3), the powers exercisable by the Council of a college referred to in subclause (1) (a) immediately before the commencement of this clause are to be taken to be powers specified in a notice under that subsection.
- (4) Until a governing council or interim governing council of a college referred to in subclause (1) (b) is established under this Act, the Minister is to be taken to be the interim governing council of that college and may exercise all or any of the powers of a governing council in relation to that college.

#### **5. College of Customised Training**

On the commencement of this clause —

- (a) the College is not to be taken to be a college or a training provider under this Act and ceases, for all purposes, to exist;
- (b) the members of the Interim Council of the College cease to hold office;

- (c) all assets that were, immediately before that commencement vested in, under the control of, or standing to the credit of, the College together with all claims, rights and remedies that the College then had in respect of those assets, become vested in the Minister;
- (d) all obligations and liabilities of the College that existed immediately before that commencement, become obligations and liabilities of the Minister;
- (e) any agreement to which the College was a party (other than one to which the Minister was the other party) has effect as though the Minister was substituted for the college as a party to the agreement; and
- (f) the Minister becomes the owner of all the documents which, immediately before that commencement, belonged to the College.

## **6. Managing directors**

- (1) The person who, immediately before the commencement of this clause was employed as the director of a college referred to in clause 4 (1) (a) becomes the managing director of that college on the same terms and conditions under which he or she was so employed.
- (2) On the commencement of this clause the managing director of a technical college referred to in clause 4 (1) (b) becomes the managing director of the relevant college under this Act and is to be taken to have been appointed in the manner referred to in section 46, on the day he or she was appointed managing director of the college referred to in that clause.

## **7. Other staff**

On the commencement of this clause all persons who immediately before that commencement were members of the staff of a college under the *Colleges Act 1978* or a technical college under the *Education Act 1928* become employees of the relevant college under this Act and —

- (a) all such persons retain all their existing and accruing rights in relation to that employment and in particular in relation to sick leave, long service leave, retirement and superannuation; and
- (b) any period of employment under either of those Acts is to be regarded as a period of employment by the relevant college under this Act.

**7A. Superannuation**

For the purposes of the *Superannuation and Family Benefits Act 1938* a college is to be taken to be a department within the first paragraph of the definition of that term in that Act.

**8. Student associations**

- (1) On the commencement of this clause, a student association established under section 44 of the *Colleges Act 1978* in a college and existing immediately before that commencement is dissolved and —
  - (a) all assets and rights of the association become assets and rights of the college without the need for any transfer;
  - (b) all liabilities of the association, including contingent liabilities, become liabilities of the college;
  - (c) any agreement or instrument to which the association was a party or which contains a reference to the association has effect as if the college were substituted for the association;
  - (d) all proceedings commenced by or against the association are to be taken to be proceedings by or against the college;
  - (e) anything done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b) before the dissolution by, to or in respect of the association (to the extent that that thing has any force or effect) is to be taken to have been done by, to or in respect of the college; and
  - (f) the college becomes the owner of all the association's registers, documents, books and other records, however compiled, recorded or stored and of any tape, disc or other device or medium relating to such records.
- (2) The governing council of the college is to wind up the operations and affairs of the dissolved association as soon as is practicable after the dissolution and for that purpose the governing council may exercise any powers that are necessary.
- (3) The college is to use the proceeds of the winding up for the benefit of students of the college in such manner as it determines.

*[Schedule 4 amended in Gazette 5 November 1999 p.5634.]*