

**WESTERN AUSTRALIAN
INSTITUTE OF TECHNOLOGY.**

No. 94 of 1966.

AN ACT to establish and incorporate The Western Australian Institute of Technology and for incidental and other purposes.

[Assented to 12th December, 1966.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Western Australian Institute of Technology Act, 1966.*

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

3. The arrangement of this Act is as follows— Arrangement.

PART I.—THE WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY.

Division 1.—The Institute.

Division 2.—The Council.

Division 3.—Financial Provisions.

Division 4.—Miscellaneous Provisions.

Division 5.—Statutes.

PART II.—TRANSITORY PROVISIONS—INTERIM COUNCIL.

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

“casual vacancy” means a vacancy arising in the office of a member otherwise than by reason of the effluxion of time;

“Chairman” means the Chairman of the Council;

“Council” means the Council of the Institute;
“enrolled student” means a student enrolled in the Institute;

“examination” means an examination conducted by the Institute and includes an examination conducted by any other person or body prescribed by the Statutes as a person or body authorised to conduct examinations for the Institute;

“Institute” means The Western Australian Institute of Technology established under this Act;

“member” means a member of the Council;

“Minister” means the Minister for Education;

“prescribed” means prescribed by this Act or by a by-law or Statute, as the case requires;

“Statute” means a Statute of the Institute in force in pursuance of this Act.

(2) If a question arises as to whether a person is a member of the academic staff of the Institute, or as to what persons or classes of persons constitute the academic staff thereof, that question shall be determined by the Council, and the decision of the Council thereon is final.

PART I.—THE WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY.

Division 1.—The Institute.

Establishment and incorporation of Western Australian Institute of Technology.

5. (1) An Institute, consisting of a Council, the members of the academic and other staff and the enrolled students, shall be established in the State.

(2) The Institute shall be a body corporate by the name of "The Western Australian Institute of Technology" and under that corporate name—

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may sue and be sued in any court;
- (d) may take, purchase and hold real and personal property, including property devised, bequeathed or given to the Institute;
- (e) may, subject to subsection (3) of this section, grant, sell, alienate, assign and demise real or personal property; and
- (f) may do and suffer all other acts and things that bodies corporate may by law do and suffer.

(3) The Institute shall not, except with the approval of the Governor grant, sell, alienate, mortgage, charge or demise any real property.

Common Seal of Institute.

6. (1) The common seal of the Institute shall be kept in such custody as the Council directs and shall not be used except upon resolution of the Council or as may be authorised by the Statutes.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Institute affixed to any document and shall presume that it was duly affixed until the contrary is proved.

Judicial notice.

7. The functions of the Institute shall include the following—

Functions of the Institute.

- (a) to provide facilities for higher specialised instruction and to advance training in the various branches of technology and science;
- (b) to aid the advancement, development and practical application to industry of science or any techniques;
- (c) to encourage and provide facilities for the development and improvement of tertiary education whether on a full or part time basis to meet the needs of the community in the State;
- (d) to provide such other courses as may be approved by the Council;
- (e) to foster the general welfare and development of all enrolled students;
- (f) subject to this Act and the Statutes to award appropriate diplomas or certificates to enrolled students who have attained standards approved by the Institute in examinations and to other persons as prescribed; and
- (g) to provide such facilities relating to the foregoing objects as the Council thinks necessary or conducive for their attainment.

Division 2.—The Council.

8. The governing authority of the Institute is the Council.

The Council.

Constitution
of Council.

9. (1) The Council shall consist of—

- (a) six persons appointed by the Governor representative of the professions and industrial and commercial interests;
- (b) a person appointed by the Senate of the University of Western Australia to represent the University;
- (c) the person for the time being holding the office of Director-General of Education under the Education Act, 1928, or a person nominated in writing by him to the Minister;
- (d) the person for the time being holding the office of Director of Technical Education under the Education Act, 1928;
- (e) the person for the time being holding the office of Under Treasurer of the State or a person nominated in writing by him to the Minister;
- (f) the person for the time being appointed the chief executive officer of the Institute;
- (g) two persons who are members of the full time academic staff of the Institute elected by members of that staff;
- (h) the person who not being a member of the Council at the time of his appointment as Chairman, is appointed Chairman pursuant to section eleven of this Act; and
- (i) two persons appointed from time to time by co-option by the Council but a person whose sole or principal employment is that of a member of the academic staff of the Institute may not be so appointed.

(2) When and as often as a branch of the Institute is established pursuant to this Act, a person who shall represent that branch may be appointed from time to time by co-option by the Council.

(3) Subject to this Act, each member other than a member ex officio, a member nominated by him or who is appointed by co-option holds office as member for a term of three years from the date of his appointment, but three of the persons first appointed under paragraph (a) of subsection (1) of this section shall be appointed for a term of two years and three of the persons so appointed shall be appointed for a term of four years and thereafter each appointment under that paragraph shall be for a term of three years.

(4) Each member appointed by co-option, whenever appointed, shall retire on the date on which the members last appointed by the Governor prior to his appointment by co-option, retire upon the expiration of their term of office.

(5) All retiring members are, unless otherwise disqualified, eligible for re-appointment.

(6) Where a casual vacancy occurs in the office of a member the Governor may appoint a person to the vacant office and the person so appointed—

- (a) shall have the like prescribed qualification, if any, as that of the member whose office has become vacant; and
- (b) shall, subject to this Act, hold office as member for the residue of his predecessor's term of office.

10. If a member—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) is an incapable person within the meaning of section four of the Mental Health Act, 1962;
- (d) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;

Vacation of office.

- (e) is convicted of an indictable offence;
- (f) is absent without leave of the Council from six consecutive meetings of the Council;
or
- (g) ceases to hold any qualification required for his becoming or being a member,

his office shall come vacant and shall be filled as a casual vacancy in accordance with subsection (6) of section nine of this Act.

Meetings
of Council.

11. (1) The Chairman shall preside at all meetings of the Council at which he is present.

Chairman.

(2) The members shall from time to time as occasion arises—

- (a) elect a person, whether a member or not, to be the Chairman for a term not exceeding three years;
- (b) elect one of its members to be the Deputy Chairman for a term not exceeding three years.

(3) At any meeting of the Council at which—

- (a) the Chairman is not present, the Deputy Chairman shall preside at the meeting;
- (b) the Chairman and the Deputy Chairman are not present, the members present at the meeting shall elect a member to preside at that meeting,

and while so presiding the Deputy Chairman or the member, as the case may be, has all the powers and duties of the Chairman.

(4) Subject to the Statutes, the Council shall hold such meetings thereof as are necessary for the performance of its functions.

(5) Subject to the Statutes, the Chairman may at any time convene a meeting of the Council and shall convene a meeting when requested in writing by the Minister to do so or when so requested by any four members.

(6) Subject to this Act and the Statutes the Council may regulate its own procedure in such manner as it thinks fit.

12. A member is not entitled to vote either in the Council or in any committee thereof on any question in respect of which he has a direct pecuniary interest, and if the member so votes his vote shall be disregarded.

Vote of member having a pecuniary interest.

13. (1) At a meeting of the Council—

Quorum.

(a) not less than one-half of the total number of members for the time being forms a quorum;

(b) a question arising at the meeting shall be determined by a majority of the valid votes of the members present.

Decision on question.

(2) No act or thing done by the Council is invalidated, prejudiced or affected by reason of any vacancy in the membership of the Council or any failure to appoint any member, or any defect in the appointment of any member so long as a quorum of the Council remains.

Vacancy not to affect powers, functions of Council.

14. (1) The Council shall appoint and may terminate the appointment of a person to be the chief executive officer of the Institute.

Chief executive officer.

(2) The chief executive officer shall hold office as such for such period and on such conditions as the Council determines and the Minister approves.

(3) The chief executive officer has such powers and duties as are conferred or imposed upon him by the Statutes and unless otherwise expressly provided

therein, the chief executive officer may delegate any of those powers and duties to any person or committee of persons.

Delegation
by Council.

15. (1) The Council may, in relation to any matter or class of matters, or in relation to any activity or function of the Institute, by resolution delegate all or any of its powers, authorities, duties and functions under this Act, except this power of delegation and its powers in relation to the making of Statutes or by-laws, to any member or to a committee consisting of members appointed by the Council or to any officer or officers of the Institute.

(2) The Council may by resolution revoke a delegation given under this section and no delegation so given prevents the exercise or discharge by the Council of any of its powers, authorities, duties or functions.

(3) Each committee appointed by the Council pursuant to this section shall report to the Council on its activities at such times as the Council directs.

Power of
Management
of Council.

16. Subject to this Act, the Council has the management and control of the property and affairs of the Institute and may do all such acts and things as it may think best calculated to promote the interests of the Institute.

Power of
Council
to appoint
and dismiss
staff.

17. Subject to this Act and any award or agreement in force under the Industrial Arbitration Act, 1912, the Council may appoint, suspend and terminate the appointment of any member of the staff of the Institute, whether a member of the academic or non-academic staff and any such appointment shall be upon such terms and conditions as the Council thinks fit and the Minister approves.

18. (1) Subject to this Act, the Council may award—

Power to award diplomas, etc.

- (a) appropriate diplomas and certificates; and
- (b) appropriate honorary awards.

(2) Any diploma or certificate or honorary award of the Institute awarded by the Council shall be evidenced by a certificate given under the common seal of the Institute.

19. The Council may establish and maintain branches of the Institute at such places in the State as the Council with the approval of the Minister, thinks fit.

Power to establish branches.

20. (1) The land described in the Schedule to this Act (in this section called the "Institute land") shall be vested as provided in the Schedule in the Council for the purposes of the Institute and for purposes incidental thereto.

Vesting and control of certain land.

(2) When the Institute land ceases to be used for the purposes of or incidental to the Institute, it shall revert to and revest in Her Majesty.

(3) The Council may lease a portion of the Institute land to an affiliated residential college, affiliated hostel or hall of residence—

- (a) on condition to use the leased land only as a place for the residence or education and residence of enrolled students and for such other purposes connected therewith or subordinate thereto as are specified in the lease;
- (b) on such other conditions and with such covenants as the Council thinks fit.

(4) The Council may, with the approval of the Governor, make by-laws for the control and management of the Institute land or any other land

vested in the Council for the purposes of this Act and for regulating the use thereof, by the public, enrolled students and, in particular, for—

- (a) providing for the safety and preservation of any property in or on the Institute land or other land so vested;
- (b) prescribing and regulating the removal from the Institute land or other land so vested, of persons causing any annoyance or inconvenience or using any obscene, blasphemous or indecent language;
- (c) regulating the days and times of admission to the Institute land or other land so vested or to any specified part thereof or to any building thereon or any specified part thereof;
- (d) prohibiting persons generally or any specified class or classes of persons from entering or remaining on the Institute land or other land so vested or on any specified part thereof or on any building thereon or any specified part thereof;
- (e) regulating and controlling the use of roadways and footways in or across the Institute land or other land so vested or any part thereof, and in particular prohibiting the parking, ranking, driving and leaving of vehicles on any such land or part thereof by any person or any class of persons and to empower persons authorised in writing by the Council to remove any vehicle from such land without assigning any reason; and
- (f) imposing penalties, not exceeding fifty dollars, for any breach of a by-law.

(5) All penalties imposed in respect of breaches of any by-law under this section shall notwithstanding the provisions of any other Act be paid to the Council for the use of the Institute.

21. Subject to this Act and the Statutes, the Council— Powers of Council.

- (a) may provide such courses of advanced education as it thinks fit and may in accordance with this Act award appropriate diplomas and certificates or honorary awards;
- (b) may from time to time appoint persons to the staff of the Institute and other officers and engage employees for the Institute;
- (c) has the entire control and management of the affairs, concerns and property of the Institute;
- (d) may, with the approval of the Minister, provide any course that is below the level of tertiary education; and
- (e) may act in all matters concerning the Institute in such manner as appears to it best calculated to promote the objects and interests of the Institute.

Division 3.—Financial Provisions.

22. (1) The Council shall, as soon as practicable, after each thirty-first day of December, prepare and furnish to the Minister a report of the operations of the Institute during the period of twelve months immediately preceding that day, together with financial statements in such form as the Treasurer approves. Report and financial statements of Institute.

(2) Before furnishing the financial statements to the Minister, the Council shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show a true and correct view of the financial position and transactions of the Institute;

- (c) whether the receipt, expenditure and investment of moneys and other transactions of the Institute during the year to which the financial statements relate, have been in accordance with this Act; and
- (d) as to such other matters arising out of the financial statements as the Auditor General considers should be reported to the Minister.

(3) The Minister shall lay the report and financial statements of the Institute, together with the report of the Auditor General, before each House of Parliament within twelve sitting days of that House after their receipt from the Council by the Minister.

**Funds of
Institute.**

23. (1) The funds available to the Council for the purpose of enabling it to exercise its powers, authorities, duties and functions under this Act are—

- (a) moneys from time to time appropriated by Parliament for that purpose;
- (b) moneys received by the Council by way of fees, charges, gifts, bequests or otherwise whether paid or made to the Institute or the Council;
- (c) moneys borrowed by the Institute under this Act; and
- (d) moneys made available to the Council or the Institute for the purposes of this Act.

(2) The moneys referred to in subsection (1) of this section shall be paid into, and be placed to the credit of an account at the Treasury or at a bank approved by the Treasurer to be called "The Western Australian Institute of Technology Account".

(3) All expenditure incurred by the Council for the purposes of giving effect to this Act, including the repayment of moneys borrowed by or advanced to the Institute in accordance with this Act, shall be paid from the account referred to in subsection (2) of this section.

24. (1) Subject to subsection (2) of this section, the Institute may at any time and from time to time, with the approval of the Governor, borrow money—

Power of Institute to borrow.

- (a) for the effectual exercise by the Institute of its powers, duties, authorities and functions under this Act; and
- (b) to discharge the principal, moneys and interest thereon owing by the Institute in respect of any existing loan or for the consolidation of the debts of the Institute.

(2) The Governor shall not approve, for the purposes of subsection (1) of this section, unless a written proposal specifying—

Scheme of loan.

- (a) the amount of the proposed loan and the terms and other particulars thereof;
- (b) the rate of interest to be paid on the amount of the loan;
- (c) the purposes to which the amount of the loan is to be applied; and
- (d) the manner in which the loan is to be repaid,

is first submitted by the Institute to, and approved by, the Treasurer.

(3) The Treasurer on behalf of the Crown in right of the State shall guarantee repayment of the principal, moneys and interest thereon in respect of moneys borrowed by the Institute under this section and any liability of the Crown arising out of a guarantee given by the Treasurer under this subsection shall be paid out of moneys in the Public Account as defined in the Audit Act, 1904.

Appropriation.

25. Where any money standing to the credit of The Western Australian Institute of Technology Account is not immediately required for the purposes of this Act, the Council may invest it in any investments authorised by law as those in which trust funds may be invested.

Power of Institute to invest certain moneys.

Annual estimates of Institute.

26. (1) The Council shall cause to be prepared and submitted to the Treasurer under such headings and in such manner as the Treasurer directs, annual estimates of the revenue and expenditure of the Council in connection with the carrying out of the functions of the Institute.

(2) Before the annual estimates referred to in subsection (1) of this section are submitted to the Treasurer as required by that subsection, they shall be submitted to, and approved by, the Minister.

Division 4.—Miscellaneous Provisions.

Governor to be Visitor.

27. (1) The Governor shall be the Visitor of the Institute, and has authority, as and when he thinks fit, to do all things that pertain to the office of Visitor.

Vide s. 23 Act No. 30 of 1918.

(2) In this section, the expression "Governor" means the Governor of the State and not the Governor acting with the advice and consent of the Executive Council.

Prohibition of religious tests.

28. No religious test shall be administered to any person in order to entitle that person to be admitted as an enrolled student or to hold office in the Institute, or to graduate thereat, or to hold any advantage or privilege thereof.

Preservation of rights of officers and employees.

29. Where any person appointed under section fourteen or seventeen of this Act was, immediately before such appointment, an officer of the Public Service of the State or an officer appointed under the Education Act, 1928, he shall be deemed to have retained, his accrued rights and in particular his rights, if any, under the Superannuation and Family Benefits Act, 1938.

Power to Institute to become department for purposes of Act No. 34 of 1938.

30. (1) The Council shall request that the inclusion of the Institute as a department for the purposes of the Superannuation and Family Benefits Act, 1938, be recommended by the Minister to whom the administration of that Act is committed and approved by the Treasurer.

(2) Where the request of the Council is so recommended and approved, the Treasurer may—

if the Council enters into the agreement and makes arrangements, which it is authorised to do, required by the proviso to the interpretation of “department” in subsection (1) of section six of the Superannuation and Family Benefits Act, 1938,

approve of the inclusion of the Institute as a department for the purposes of that Act and the Institute shall, for the purposes of that Act only, be deemed to be a department.

(3) A member of the staff, officer or employee of the Institute is not compelled to become a contributor for pension, superannuation or benefits under an agreement entered into by the Council pursuant to this section.

31. (1) For the purposes of this Act the Governor shall, upon being requested by the Minister so to do, by Order in Council, vest in the Council—

Power to vest certain lands in the Council.

(a) any land reserved to Her Majesty under the Land Act, 1933 as sites for schools and other buildings for the purposes of education; and

(b) any land that is vested in the Minister by virtue of section six of the Education Act, 1928,

and on the making of the Order in Council the land shall vest accordingly.

(2) The Council shall use the land so vested under and subject to this Act and for the purposes thereof and shall hold and administer it for and on account of the Institute.

32. The Council shall apply for the purposes of the Institute all fees and other moneys received by it under this Act or otherwise.

Application of moneys received by Council.

Exemption
from tax or
rate.

33. (1) No tax or rate may be charged or levied upon any property vested in the Council.

(2) Subsection (1) of this section does not operate so as to exempt property that is vested in the Council, if it is leased to or occupied by any person for any private purpose.

Division 5.—Statutes.

Power
to make
Statutes.

34. (1) The Council may make Statutes, not inconsistent with this Act, with respect to all matters pertaining to the Institute and in particular may make Statutes with respect to—

- (a) the management, good government and discipline of the Institute;
- (b) the use and custody of the common seal of the Institute, and the functions of the Council that may be exercised without the use of the common seal for that purpose;
- (c) the organisation and supervision of the teaching of enrolled students;
- (d) the staff of the Institute and its branches;
- (e) the manner and time of convening, holding and adjourning the meetings of the Council, the manner of voting at those meetings, the powers and duties of the Chairman, the conduct and record of the business, the appointment of committees of the Council and the quorum, powers and duties of those committees;
- (f) the entrance standards for students;
- (g) the granting of appropriate diplomas and certificates of honorary awards by the Institute;
- (h) the granting of scholarships, exhibitions, bursaries and prizes;
- (i) the fees to be charged for any examination, diploma or certificate;

- (j) the admission of graduates and students of other institutes of technology or educational institutions to any corresponding status in the Institute without examination;
- (k) the recognition, instead of or for the purpose of any examination or course of study, of any course of study completed or examination passed in any educational institution;
- (l) the establishment by the Council of hostels and halls of residence for enrolled students and the management, control and closing of any of those hostels and halls;
- (m) the government of colleges, hostels and halls of residence that are under the control of the Council, the affiliation of colleges, hostels and halls of residence that are not under the control of the Council and the licensing and supervision of boarding houses catering for enrolled students and for the revocation of the licensing thereof; and
- (n) the control and investment of the property of the Institute.

(2) A Statute made under this section may be revoked or amended by a subsequent Statute so made.

(3) The Statutes may provide for—

- (a) empowering the Council of the Institute to make by-laws or rules, not inconsistent with this Act or with any Statute for regulating or providing for the regulation of, any specified matter with respect to which Statutes may be made, or for carrying out or giving effect to the Statutes, and any of those by-laws or rules shall have the same force and effect as a Statute;
- (b) the manner of promulgation of those by-laws or rules; and

Power
to make
by-laws and
rules.

(c) the revocation or amendment of any of those by-laws or rules.

(4) The production of a verified copy of any by-law or rule made under subsection (3) of this section under the common seal of the Institute is evidence of the making and authenticity of the by-law or rule in all courts and before all persons acting judicially.

Statutes to be approved by Governor and published.

35. (1) Every Statute made by the Council shall be sealed with the common seal of the Institute and shall be transmitted by the Council for the approval of the Governor, and when so approved—

(a) shall be published in the *Government Gazette*;

(b) shall take effect from the date it is so published or from a later date to be specified in the Statute.

(2) A copy of each Statute shall be laid before each House of Parliament within fourteen sitting days after it is published in the *Government Gazette* if Parliament is then in Session, and if not, then within fourteen sitting days after the commencement of the next succeeding Session of Parliament.

(3) If either House of Parliament within the next succeeding fourteen sitting days after a copy of a Statute has been laid before it as provided in this section, resolves that the Statute be revoked in whole or in part, that Statute or that part, is from the date of such resolution, of no effect, but without affecting the validity of anything done pursuant to that Statute in the meantime.

(4) The production of a copy of a Statute under the common seal of the Institute, or of a document purporting to be a copy of a Statute and to have been printed by the Government Printer is, in all proceedings, sufficient evidence of the Statute.

PART II.—TRANSITORY PROVISIONS—INTERIM COUNCIL.

36. (1) The Council shall be duly constituted as provided in section nine of this Act on a date to be fixed by proclamation which date is in this and the following sections of the Act called the "appointed date".

Date of Constitution of Council.

(2) The appointed date shall not be less than two years nor more than two years three months after the coming into operation of this Act.

37. Until the appointed day the affairs, concerns and property of the Institute shall be governed and administered by the Interim Council as constituted by section thirty-eight of this Act.

Provision for Interim Council.

38. (1) The Interim Council shall consist of the following persons—

Constitution of Interim Council.

- (a) three persons appointed by the Governor;
- (b) the person for the time being holding the office of Director-General of Education under the Education Act, 1928, or a person nominated in writing by him to the Minister;
- (c) the person for the time being holding the office of Director of Technical Education;
- (d) the person for the time being holding the office of Under Treasurer of the State or a person nominated in writing by him to the Minister;
- (e) the person appointed to be the Chief Executive Officer of the Institute; and
- (f) a person appointed by the Senate of the University of Western Australia,

but until a person is appointed to be the chief executive officer of the Institute, a person nominated in writing by the Minister shall be a member of the Interim Council in place of the first mentioned person.

(2) When ten persons or more have been appointed to the full time academic staff of the Institute, one of those persons elected by the members of that staff shall be a member of the Interim Council.

(3) The Governor shall appoint one of the members of the Interim Council referred to in subsection (1) or (2) of this section to be the Chairman thereof.

(4) The Chairman of the Interim Council has in respect thereof the same powers, authorities, duties and obligations in all respects as the Chairman has in respect of the Council.

(5) In the absence of the Chairman of the Interim Council from a meeting thereof a member of that Council elected from and by the members present at the meeting shall be the Chairman of the meeting.

Incorporation of Institute.

39. Upon a date to be fixed by proclamation the Institute shall be incorporated as a body corporate in accordance with the foregoing provisions of this Act, notwithstanding that the Council is not then constituted.

Powers of Interim Council.

40. The Interim Council shall, subject to this Act, have all the powers, authorities, duties and obligations of the Council under this Act, except those relating to appointing members by co-option and electing a Chairman under section eleven of this Act.

Application of foregoing provisions of this Act to Interim Council.

41. Subject to this Act, the provisions thereof relating to—

- (a) voting at meetings of the Council;
- (b) the decision of questions by the Council;
- (c) the vacating of office of members;
- (d) the constitution and appointment of and the delegation of powers to committees or others by the Council; and
- (e) the validation of proceedings of the Council and those committees,

