

WESTERN AUSTRALIAN COLLEGE OF ADVANCED EDUCATION ACT 1984.

(No. 18 of 1984.)

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WESTERN AUSTRALIA.

WESTERN AUSTRALIAN
COLLEGE OF ADVANCED
EDUCATION.

No. 18 of 1984.

AN ACT to make better provision for the Western Australian College of Advanced Education and for incidental and other purposes.

[Assented to 31 May 1984.]

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:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Western Australian College of Advanced Education Act 1984*. Short title.

Commence-
ment.

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

Interpreta-
tion.

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

“Academy” means the Western Australian Academy of Performing Arts referred to in section 24;

“Alumni” means graduates of

- (a) the College;
- (b) a constituent college or a college referred to in section 47 of the Colleges Act; or
- (c) a college established and maintained by the Minister at Churchlands, Claremont, Graylands, Mount Lawley or Nedlands under section 10 of the Education Act 1928 as in force immediately before the appointed day as defined in section 4 of the Teacher Education Act 1972;

“Board of the Academy” means the Board of Management of the Academy;

“Board of the Institute” means the Board of the Bunbury Institute of Advanced Education referred to in section 19 (1);

“Chairman” means the Chairman of the Council;

“chief executive officer” means the person holding or acting in the office of chief executive officer of the College under section 30;

“College” means the Western Australian College of Advanced Education referred to in this Act;

“Colleges Act” means the Colleges Act 1978;

“commencement date” means the date on which this Act comes into operation;

“Council” means the Council of the College;

“enrolled student” means a student enrolled in the College;

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

“Institute” means the Bunbury Institute of Advanced Education referred to in section 18;

“member” means a member of the Council;

“member of the staff” means the chief executive officer, a member of the academic or other staff, an officer or employee of the College;

“post-secondary education” has the meaning given to that expression in the Western Australian Post-Secondary Education Commission Act 1970;

“prescribed” means prescribed by this Act, by a by-law made under this Act, by a Statute or by a by-law or rule made under a Statute;

“section” means a section of this Act;

“Statute” means a Statute of the College in force in pursuance of this Act;

“Student Guild” means the Western Australian College of Advanced Education Student Guild referred to in section 41;

“subsection” means a subsection of the section in which the term is used.

(2) Any question arising as to whether a person is or is not a member of the academic staff, or a member of the salaried staff, or an officer or employee of the College shall be determined by the Council and the decision of the Council is final.

(3) Any question arising as to whether a person—

(a) is a member of the staff at the Institute, at the Academy or at a particular campus of the College; or

(b) is an enrolled student at the Institute, at the Academy or at a particular campus of the College,

shall be determined by the Council and the decision of the Council is final.

PART II—THE WESTERN AUSTRALIAN COLLEGE
OF ADVANCED EDUCATION.

Establish-
ment.

4. The college known as the Western Australian College of Advanced Education established under the Colleges Act is continued in existence as if on the coming into operation of this Act it had been established under this Act and on and from the commencement date the Colleges Act shall cease to apply to the College.

Constitution
and powers.

5. (1) Subject to this Act, the College shall consist of the Council, the members of the staff and the enrolled students.

(2) The College shall be a body corporate and under its 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 College;

(e) may, subject to subsection (3), 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 College shall not, except with the approval of the Governor, grant, sell, alienate, mortgage, charge or demise any real property.

6. (1) The common seal of the College 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 authorized by the Statutes. Common seal.

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

7. The functions of the College shall include the following— Functions of the College.

- (a) to provide, on a full time or part time basis, post-secondary education to meet the needs of the community in this State;
- (b) to encourage and provide facilities for the development and improvement of post-secondary education;
- (c) to aid the advancement, development, and practical applications to education, industry, commerce and the community, of knowledge or any techniques;
- (d) to provide such courses of study as may be approved by the Council;
- (e) to foster the general welfare and development of all enrolled students;
- (f) to promote and encourage collaboration and consultation between the College and other institutions and authorities to ensure the greatest effectiveness and economy in expenditure and the most beneficial relationship between the College and other educational institutions throughout the State; and
- (g) to provide such facilities relating to its functions as the Council thinks necessary or conducive to their attainment.

PART III—THE COUNCIL OF THE COLLEGE.

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

Constitution of the Council. 9. (1) Subject to this Act the Council shall consist of—

- (a) 7 persons appointed by the Governor being persons with experience in education, the professions, industry or commerce and such other persons who are representative of the community;
- (b) the person for the time being holding office as the chief executive officer of the College;
- (c) 2 persons who are members of the full time academic staff of the College who are elected by members of that staff in such manner as is prescribed by Statute;
- (d) 1 person who is a member of the full time salaried staff, other than academic staff, of the College, and who is elected by members of that staff in such manner as is prescribed by Statute;
- (e) 2 persons who are enrolled students of the College, and who are elected by the enrolled students of the College in such manner as is prescribed by Statute;
- (f) 1 person who is elected by and from among the persons whose names are registered on the Register of Alumni maintained by the College;
- (g) the person for the time being holding the office of chairman of the Board of the Institute;
- (h) the person for the time being holding the office of chairman of the Board of the Academy;

- (i) 3 persons appointed from time to time by the Minister on the recommendation of the Council; and
- (j) if he is not already a member pursuant to one of the foregoing paragraphs of this subsection, the Chairman.

(2) Proceedings of the first meeting of the Council after the commencement date are not invalid by reason only that a recommendation for or an appointment to an office referred to in subsection (1) (i) has not been made.

(3) A person whose whole or principal employment is that of a member of the staff of the College is not eligible to hold office by virtue of paragraph (a), (e), (f) or (i) of subsection (1).

10. (1) Subject to this Act—

Term of
office.

- (a) an appointed member holds office for such period not exceeding 3 years as is specified in the instrument of his appointment;
- (b) an elected member, other than a member referred to in section 9 (1) (e) holds office for a term of 3 years from the date on which his election takes effect;
- (c) a member referred to in section 9 (1) (e) holds office for a term of one year from the date on which his election takes effect; and
- (d) a person holding office as a member pursuant to section 9 (1) (j) shall hold that office for the term of his office as Chairman.

(2) Subject to subsections (3) and (4) all retiring members are, unless otherwise disqualified, eligible for re-appointment or re-election.

(3) A member referred to in section 9 (1) (e) is not eligible for re-election more than once.

(4) A member other than a member referred to in section 9 (1) (e) is not eligible to be re-appointed on the expiry of a third successive term of office until 12 months have elapsed after such expiry.

(5) Where a vacancy occurs in the office of an elected member—

(a) if, at the expiration of 3 months from the occurrence of the vacancy, the office has not been filled by election, it may be filled by a person who has been appointed by the Governor and has the like prescribed qualification as that of the member whose office has become vacant; and

(b) if the vacancy occurs otherwise than by effluxion of time, the person who fills the vacancy shall, subject to this Act, hold office as member for the residue of his predecessor's term of office.

(6) In this section—

“appointed member” means a member referred to in section 9 (1) (a) or section 9 (1) (i);

“elected member” means a member referred to in section 9 (1) (c), 9 (1) (d), 9 (1) (e) or 9 (1) (f).

**Vacation of
office.**

11. The office of a member becomes vacant if—

(a) his term of office expires by effluxion of time;

(b) he resigns his office by writing under his hand addressed to the Minister;

(c) he becomes permanently incapable of performing his duties as a member;

(d) he is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;

- (e) he is convicted of an indictable offence;
- (f) he is absent without leave of the Council from 3 consecutive meetings of the Council;
or
- (g) he ceases to hold any qualification required for his becoming or being a member.

12. (1) The members shall from time to time as occasion arises—

Chairman
and
meetings of
Council.

- (a) elect a person, whether a member or not, to be the Chairman for a term not exceeding 3 years;
- (b) elect one of their number to be the Deputy Chairman for a term not exceeding 3 years.

(2) A person whose whole or principal employment is that of a member of the staff is not eligible to be elected Chairman or Deputy Chairman.

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

(4) 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.

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

(6) 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 4 members.

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

Vote of
member
having a
pecuniary
interest.

13. 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.

Quorum.

14. (1) At a meeting of the Council—

(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.

(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 or elect any member, or any defect in the appointment or election of any member so long as a quorum of the Council remains.

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 College, 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 board or committee constituted under this Act or a Statute or to a member or to a committee consisting of members appointed by the Council or to any officer or officers of the College.

(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.

PART IV—FUNCTIONS, DUTIES AND POWERS
OF THE COUNCIL.

16. (1) Subject to this Act and the Western Australian Post-Secondary Education Commission Act 1970 the Council shall— Functions and duties of the Council.

- (a) perform any function or duty conferred or imposed upon the College under this Act;
- (b) act in all matters concerning the College in such manner as appears to it best calculated to promote the objects and interests of the College; and
- (c) control and manage the operation, affairs, concerns and property of the College.

(2) In carrying out its functions and duties pursuant to subsection (1) the Council shall have regard to and foster the distinctive characteristics of each campus of the College.

17. (1) Subject to this Act and the Statutes and to the Western Australian Post-Secondary Education Commission Act 1970 the Council has power to do all things necessary or convenient to be done for or in connection with the operation, affairs, concerns and property of the College and, in particular, the Council— Powers of Council.

- (a) may, on behalf of the College, enter into and execute agreements with government departments and with other post-secondary education institutions for the purpose of the academic or other salaried staffing of the College and for the provision of the education that the College is authorized by this Act to provide;
- (b) may, on behalf of the College, enter into and execute contracts for the planning, construction, modification and maintenance of buildings and for minor works and services;
- (c) may provide post secondary education on a full time or part time basis at such place or places as are determined by the Council and may with the approval of the Minister declare that any such place or places constitute a campus of the College;
- (d) may establish guidelines for the use of College facilities by the community and levy and collect appropriate charges for such use;
- (e) may, on behalf of the College, award—
 - (i) appropriate degrees, diplomas and certificates; and
 - (ii) appropriate honorary awards, to enrolled students and other persons; and
- (f) may exercise any other power vested in it under this Act.

(2) Any degree, diploma or certificate or honorary award of the College awarded by the Council shall be evidenced by a certificate given in accordance with the Statutes.

18. The branch of the College known as the Bunbury Institute of Advanced Education established under the Colleges Act is continued under that name under this Act.

Bunbury
Institute of
Advanced
Education.

19. (1) Subject to this Act there shall be a board to be known as the Board of the Bunbury Institute of Advanced Education which shall be responsible to the Council for the control and management of the affairs, concerns, and property of the Institute.

Board of
the Institute.

(2) On and after the appointed day the Board of the Institute shall consist of—

- (a) 1 person appointed by the Minister to be chairman of the Board of the Institute;
- (b) 7 persons appointed by the Minister being persons with experience in education, the professions, industry and commerce and such other persons who are representative of the community;
- (c) the person for the time being holding office as the chief executive officer of the Institute.
- (d) 2 persons appointed by the Council, but not more than 1 of those persons may be a member of the full time staff of the College;
- (e) 1 person who is a member of the full time academic staff at the Institute elected by members of that staff in such manner as is prescribed by Statute;
- (f) 1 person who is a member of the full time salaried staff (other than academic staff) at the Institute elected by members of that salaried staff in such manner as is prescribed by Statute; and
- (g) 1 person who is for the time being an enrolled student at the Institute and who is elected by enrolled students at the Institute in such manner as is prescribed by Statute.

(3) Before the appointed day the Board of the Institute shall consist only of the members referred to in paragraphs (a), (b), (c) and (d) of subsection (2).

(4) The Minister may, by notice published in the *Government Gazette*, fix a day as the appointed day for the purposes of subsection (2) of this section.

(5) In this section "appointed day" means the day fixed by the Minister under subsection (4).

Term of
office.

20. (1) Subject to this Act—

(a) an appointed member of the Board of the Institute holds office for such period not exceeding 3 years as is specified in the instrument of his appointment;

(b) a member of the Board of the Institute elected under section 19 (2) (e) or section 19 (2) (f) holds office for a term of 3 years from the date on which his election takes effect;

(c) a member of the Board of the Institute elected under section 19 (2) (g) holds office for a term of 1 year from the date on which his election takes effect.

(2) Subject to subsection (3) all retiring members are, unless otherwise disqualified, eligible for re-appointment or re-election.

(3) The member referred to in section 19 (2) (g) is not eligible for re-election more than once.

(4) Where a vacancy occurs in the office of an elected member—

(a) if, at the expiration of 3 months from the occurrence of the vacancy, the office has not been filled by election the Minister may fill that office by appointing a person with the like prescribed qualification as that of the member whose office is vacant; and

- (b) if the vacancy occurs otherwise than by effluxion of time, the person who fills the vacancy shall, subject to this Act, hold office as member for the residue of his predecessor's term of office.

(5) In this section—

“appointed member” means a member of the Board of the Institute referred to in section 19 (2) (a), 19 (2) (b) or 19 (2) (d);

“elected member” means a member of the Board of the Institute referred to in section 19 (2) (e), 19 (2) (f) or 19 (2) (g).

21. The office of a member of the Board of the Institute becomes vacant if—

Vacation of
office of
member of
Board of the
Institute.

- (a) his term of office expires by effluxion of time;
- (b) he resigns his office by writing under his hand addressed to the Minister;
- (c) he becomes permanently incapable of performing his duties as a member of the Board of the Institute;
- (d) he is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (e) he is convicted of an indictable offence;
- (f) he is absent without leave of the Board of the Institute from 3 consecutive meetings of the Board of the Institute; or
- (g) he ceases to hold any qualification required for his becoming or being a member of the Board of the Institute.

Meetings of
the Board
of the
Institute.

22. (1) Subject to the Statutes, the Board of the Institute shall hold such meetings as are necessary for the performance of its functions.

(2) Subject to the Statutes, the Chairman of the Board of the Institute may at any time convene a meeting of the Board of the Institute and shall convene a meeting when requested in writing by the Minister to do so or when so requested by any 4 members.

(3) Subject to this Act and the Statutes, the Board of the Institute may regulate its own procedure in such manner as it thinks fit.

(4) The Chairman of the Board of the Institute shall preside at all meetings of the Board at which he is present.

(5) At any meeting of the Board of the Institute at which the Chairman is not present, the members present shall elect a member to preside at that meeting and while so presiding such a member has all the powers and duties of Chairman of the Board of the Institute.

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

(7) At a meeting of the Board of the Institute—

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

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

(8) No act or thing done by the Board of the Institute is invalidated, prejudiced or affected by reason of any vacancy in the membership of the Board of the Institute or any failure to appoint or elect any member of the Board of the Institute, or any defect or irregularity in the appointment or election of any person purporting to be a member so long as a quorum of the Board of the Institute remains.

23. (1) Subject to this Act, the Board of the Institute shall—

**Powers and
duties of
the Board
of the
Institute.**

- (a) perform any function conferred or imposed upon the Board by or under this Act;
- (b) 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 and the College;
- (c) advise the Council on the promotion, development and co-ordination of academic courses and programmes which are offered or to be offered by the Institute and which are, or some of which are, offered or to be offered elsewhere by the College; and
- (d) as soon as practicable after each thirty-first day of December, prepare and furnish to the Council a report of the operations of the Institute during the period of 12 months immediately preceding that day.

(2) Subject to the Act the Board of the Institute may—

- (a) select persons who are to be appointed as members of the staff of the Institute and recommend to the Council the appointment under section 31 of such persons to the staff of the College;
- (b) expend or otherwise apply for the purposes of the Institute, moneys allocated to the Institute;

- (c) expend or otherwise apply moneys received by the College, the Council, the Institute or the Board by way of gifts, or bequests for educational research or other purposes associated with the Institute.

Western
Australian
Academy of
Performing
Arts.

24. (1) The Western Australian Academy of Performing Arts shall be deemed to have been established as an academy of the College under that name on the day that this Act comes into operation.

(2) The Council may make Statutes providing for the control and management of the affairs and concerns of the Academy and without limiting the generality of the foregoing may make Statutes—

- (a) constituting the Board of the Academy;
- (b) prescribing the terms of office of the members of the Board of the Academy;
- (c) prescribing the circumstances in which an office of member of the Board of the Academy becomes vacant;
- (d) providing for meetings of the Board of the Academy;
- (e) prescribing the powers and duties of the Board of the Academy; and
- (f) prescribing all matters that are necessary or convenient to be prescribed for the purposes of giving effect to this section.

(3) The Board of the Academy is subject to the direction and control of the Council.

Campus
committees.

25. (1) For the purposes of facilitating the attainment of the objects referred to in section 16 (2) there shall be established in respect of each campus of the College a committee to be known as the campus committee.

(2) Subject to this Act a campus committee shall consist of 9 persons of whom—

- (a) 1 shall be a member of the Council referred to in section 9 (1) (a) who shall be appointed by the Minister and who shall be chairman;
- (b) 1 shall be the person who is the most senior of the academic staff at the campus;
- (c) 2 shall be persons appointed by the Minister as being representative of the community;
- (d) 2 shall be persons who are members of the full time academic staff at the campus elected by members of that staff in the manner prescribed by Statute;
- (e) 1 shall be a person who is a member of the full time salaried staff other than the academic staff at the campus elected by the members of that staff in the manner prescribed by Statute; and
- (f) 2 shall be persons who are enrolled students at the campus elected by enrolled students at that campus in the manner prescribed by Statute.

(3) A person appointed under subsection (2) (c) shall not be a member of the Council.

(4) A person is not eligible to be appointed to or to hold office as member of more than one campus committee.

(5) Subject to subsection (6), the term of office of chairman of a campus committee shall be determined by the Minister.

(6) The office of chairman of a campus committee becomes vacant if—

- (a) his term of office as determined by the Minister expires by effluxion of time;

- (b) he resigns his office by writing under his hand addressed to the Minister;
- (c) he is absent without leave of the committee from 3 consecutive meetings of the committee; or
- (d) he ceases to be a member of the Council under section 9 (1) (a).

(7) The Council may make Statutes—

- (a) prescribing the terms of office of members of a campus committee other than chairman thereof;
- (b) prescribing the circumstances in which an office of member of a campus committee other than chairman thereof becomes vacant;
- (c) providing for meetings of a campus committee; and
- (e) prescribing all matters that are necessary or convenient to be prescribed for the purposes of giving effect to this section.

(8) Subject to this Act, a campus committee shall, in relation to the campus in respect of which it is established—

- (a) perform any function conferred or imposed upon the campus committee by or under this Act;
- (b) advise the Council on the distinctive characteristics of the campus and the means of fostering those characteristics with a view to promoting the interests of the campus and the College;
- (c) advise the Council on the promotion, development and implementation at the campus of academic courses, programmes and other activities which are offered or to be offered by the College at the campus;

- (d) advise the Council on the general welfare and development of enrolled students at the campus; and
- (e) as soon as practicable after each thirty-first day of December, prepare and furnish to the Council a report of the activities of the campus during the period of 12 months immediately preceding that day.

PART V—STATUTES.

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

Power to
make
Statutes.

- (a) the management, good government and discipline of the College;
- (b) the use and custody of the common seal of the College, and the functions of the Council that may be exercised without the use of the common seal for that purpose;
- (c) the organization and supervision of the teaching of enrolled students;
- (d) the academic and other staff, officers and employees of the College;
- (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 degrees, diplomas and certificates or honorary awards by the Council;
- (h) the granting of scholarships, exhibitions, bursaries and prizes;

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- (i) the fees to be charged for courses of study or instruction, examinations, degrees, diplomas and certificates of the College and for such other facilities or privileges of the College as are prescribed;
- (j) the admission of graduates and students of other colleges or educational institutions to any corresponding status in the College 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 or under the auspices of any professional association or of any practical work performed in a field approved by the Council;
- (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 hostels and halls of residence that are under the control of the Council and the affiliation of hostels and halls of residence that are not under the control of the Council;
- (n) the control and investment of the property of the College;
- (o) the manner and time of convening, holding and adjourning the meetings of the Board of the Institute, the manner of voting at those meetings, the powers and duties of the chairman of the Board, the conduct and record of the business, the appointment of committees of the Board and the quorum, powers and duties of those committees; and
- (p) any matter authorized or directed by this Act to be prescribed by Statute in relation to the College.

(2) Without limiting the powers conferred by subsection (1) the Council may make Statutes furthering or facilitating the objects or operation of this Act with respect to long service leave entitlements of members of the staff and in particular providing for lump sum payments, instead of accrued and *pro rata* long service leave entitlements, to or in respect of persons who cease to be members of the staff, but so that the calculation of any such payment shall be based on the rate of salary of the person at the date of his ceasing to be a member of the staff; and so that no payment that exceeds the equivalent of 12 months' salary shall be paid under the Statute.

(3) Without limiting any of the powers conferred by subsection (1), a Statute with respect to the discipline of the College may—

- (a) prescribe disciplinary offences and disciplinary powers in relation thereto including penalties that may be imposed for the respective offences;
- (b) provide that penalties may be partly of one kind and partly of another but so that no monetary penalty for any one disciplinary offence exceeds \$250;
- (c) prescribe circumstances under which a penalty may be modified or suspended;
- (d) provide, in addition to penalties, for restitution to the College not exceeding \$500 for loss, damage or destruction of college property arising out of the commission of a disciplinary offence;
- (e) prescribe rights of appeal against decisions made in the exercise or purported exercise of disciplinary powers;
- (f) prescribe the persons, classes of persons and bodies of persons who may—
 - (i) make a complaint of a disciplinary offence;

- (ii) exercise all or any of the prescribed disciplinary powers; or
 - (iii) determine all or any appeals against decisions made in the exercise or purported exercise of disciplinary powers;
- (g) prescribe the practice and procedure in relation to—
- (i) making a complaint of a disciplinary offence;
 - (ii) exercising disciplinary powers; and
 - (iii) determining appeals against decisions made in the exercise or purported exercise of disciplinary powers;
- (h) prescribe the circumstances under which costs may be awarded to a person the subject of a complaint of a disciplinary offence, prescribing the persons, classes of persons or bodies of persons who may award and fix those costs; and providing for payment thereof out of College funds;
- (i) prescribe the manner in which penalties may be enforced and, in the case of monetary penalties or amounts for restitution, recovered; and
- (j) prescribe all such other matters as are necessary or expedient to be prescribed for the maintenance of the good order and discipline of the College.

(4) Without limiting the power of delegation conferred on the chief executive officer by section 30, where a Statute, or a by-law or rule made under a Statute, with respect to the discipline of the College confers on him any disciplinary power or any power to hear and determine appeals from decisions made

in the exercise or purported exercise of disciplinary powers or any power to award or fix costs, he may delegate the power to any person, class of persons or body of persons.

(5) A Statute or a by-law or rule made under a Statute—

- (a) may be limited in its application to time, place or circumstances; and
- (b) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.

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

(7) The Statutes may provide for—

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

(8) The production of a verified copy of any by-law or rule made under subsection (7) under the common seal of the College 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 the
Governor and
published.

27. (1) Every Statute made by the Council shall be sealed with the common seal of the College 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*; and

(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 14 sitting days after it is published in the *Government Gazette* if Parliament is then in session, and if not, then within 14 days after the commencement of the next succeeding Session of Parliament.

(3) If either House of Parliament within the next succeeding 14 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 College 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 VI—COLLEGE LANDS.

Power to
vest land in
the College.

28. (1) On the recommendation of the Minister the Governor, by Order in Council, may transfer to the management and control of the College or may vest in the College any land that is—

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

- (b) vested in the Minister by virtue of section 6 of the Education Act 1928,

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

(2) The College shall hold and use any land vested in the College under this Act subject to this Act and for the purposes of this Act.

(3) Where any land in the management and control of, or vested in, the College pursuant to this Act, is no longer required for the purposes of this Act, the Governor, by Order in Council, may re-vest it in Her Majesty or Her Former Estate or in the Minister of his former estate, as the case requires, and thereupon it shall be re-vested accordingly.

(4) The College may lease a portion of the land vested in it 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; and
- (b) on such other conditions and with such covenants as the Council thinks fit.

29. (1) By-laws made by the Council under this section apply only within the boundaries of college lands. By-laws relating to land.

(2) For the purposes of this section and by-laws made by the Council under this section, the Governor may, by proclamation,—

- (a) declare any land vested in, or under the management and control of the College to be college lands;
- (b) alter the boundaries of any college lands;
or

- (c) declare that any land shall cease to be college lands,

and the by-laws shall thereupon apply to that land accordingly and to any building, structure or erection on that land.

(3) The Council may, with the approval of the Governor, make by-laws for the purpose of managing, preserving, and protecting college lands and for the purpose of regulating the terms and conditions on which such lands may be visited or used by any persons whomsoever, and the conduct of such persons when on or upon such lands, and in particular may by by-laws—

- (a) prohibit or regulate the admission to such lands of persons, vehicles or animals;
- (b) prescribe the times when and the purposes for which such lands may be used, and the times when and the purposes for which the same shall be open or closed, and prohibit the use thereof or access thereto at any other times, or for any other purpose;
- (c) prescribe fees to be charged to all or any persons for admission to or use of such lands;
- (d) provide for the issue to all or any persons using such lands of tickets and requiring the production of such tickets by such persons if and whenever required by any member of the Police Force, or any member of the staff of the College;
- (e) regulate the conduct of persons using or being in or upon such lands;
- (f) prohibit any nuisance, or any offensive, indecent, or improper act, conduct, or behaviour on such lands;
- (g) prohibit the use of abusive or insulting language on such lands;

- (h) prohibit damage or injury to or interference with such lands; or any tree, shrub, hedge, plant or flower thereon, or any fixed or movable article thereon;
- (i) prohibit the writing or printing of any indecent words, or the writing, printing, or drawing, or affixing of any indecent or obscene picture or representation on such lands, or on any fence, wall, tree, shrub, or hedge thereon;
- (j) prescribe, in respect of an alleged breach of the by-laws involving a vehicle, the circumstances under which the owner of the vehicle is deemed to be the driver or person in charge of the vehicle at the time of the alleged breach;
- (k) prescribe the circumstances under which an authorized person may remove a vehicle, or cause it to be removed, from college lands to a specified place, prescribe his further powers in relation thereto, prescribe the scale of charges to be paid to recover the vehicle from that place, and authorize the Council to hold the vehicle until the prescribed charges are paid;
- (l) prescribe a modified penalty or modified penalties payable to the College by a person or one of a class of persons who does not contest an allegation that he committed any specified breach of the by-laws, and provide that the due payment of a modified penalty is a defence to a charge of the breach in respect of which that modified penalty was paid;
- (m) authorize any member of the Police Force or any member of the staff of the College to remove from such lands all persons guilty of any breach of a by-law, and to prohibit the obstruction of any such member of the Police Force or member of the staff;

- (n) require any person using such lands to give his name and address, whenever required so to do by any member of the Police Force, or any member of the staff of the College;
- and
- (o) generally provide for the carrying out of the purposes of this Act, or any Statute,

but no such by-law shall be contrary to the express provisions of this Act or of any Statute.

(4) In subsection (3) "authorized person" means any member of the Police Force, the chief executive officer of the College, or any member of the staff of the College authorized by the chief executive officer in respect of the matters referred to in the provision wherein the expression is used.

(5) The by-laws—

- (a) may be limited in their application to time, place or circumstances; and
- (b) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.

(6) Any by-law may impose a penalty not exceeding \$250 for any breach thereof and proceedings for the recovery of such penalty may be taken by any authorized person in his own name; but all pecuniary penalties shall, notwithstanding anything to the contrary contained in the Fines and Penalties Appropriation Act 1909 or any other Act, be appropriated and paid to the College for its use.

(7) In any proceedings for any contravention of any by-law the allegation in the complaint that any place was on college lands shall be sufficient evidence of the fact alleged in the absence of proof to the contrary.

(8) No by-law takes away or restricts any liability, civil or criminal, arising under any provision of any Act other than this Act or at common law.

(9) A breach of a by-law by an enrolled student is a disciplinary offence for which a complaint may be brought, heard, and determined under the disciplinary Statutes, by-laws and rules of the College instead of before a court of summary jurisdiction.

PART VII—STAFF.

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

31. (1) Subject to this Act and any relevant award or agreement in force under the Industrial Arbitration Act 1979— Academic
and other
staff.

(a) the Council may appoint the academic and other staff of the College and other officers and engage employees for the College and may suspend or terminate the employment of any person so appointed or engaged;

(b) the terms and conditions of employment of the staff, officers and employees of the College, including the salary or wages payable, are such terms and conditions as the Council determines.

(2) Where the Minister, after consultation with the Public Service Board, considers that a person appointed or engaged under subsection (1), other than a member of the academic staff, is in like employment with the College to any employment in the Public Service of the State, that person shall have like terms and conditions of employment with the College to those in the employment in the Public Service of the State.

Continuation
of existing
rights.

32. Where a person appointed or engaged under section 30 or 31 was immediately before being so appointed or engaged, an officer of the Public Service of the State, an officer appointed under the Education Act 1928 or a member of the staff of a college under the Colleges Act he retains his existing and accruing rights and in particular his rights in relation to sick leave, long service leave, and retirement and subject to sections 35 and 36 of the Colleges Act as incorporated by section 34 of this Act, his rights if any under the Superannuation and Family Benefits Act 1938.

Act No. 38 of
1945 not to
apply.

33. The provisions of the Government Employees (Promotions Appeal Board) Act 1945 do not apply to or in relation to a member of the staff of the College.

Superan-
nuation
benefits.

34. Sections 35 and 36 of the Colleges Act apply as though those sections were enacted in this Act and any reference to—

- (a) a college;
- (b) the council;
- (c) the staff, or a member of the staff, of a college; or
- (d) the staff, or a member of the staff, of a college by a particular description,

shall be deemed to include—

- (e) the College;
- (f) the Council;
- (g) the staff, or a member of the staff, of the College; or
- (h) the staff, or a member of the staff, of the College by the corresponding description,

respectively, under this Act.

35. (1) For the purposes of this Act there may be established and maintained in the College— ^{Staff associations.}

- (a) an organized association of academic staff; and
- (b) an organized association of other salaried staff,

and those associations shall be the recognized means of communication between academic staff, and other salaried staff, respectively, and the Council, but for those purposes there shall not be at the same time more than one such association of academic staff, and one such association of other salaried staff.

(2) The primary function of an association maintained under subsection (1) shall be to further the common interests of its members.

PART VIII—FINANCIAL PROVISIONS.

36. (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— ^{Funds of College.}

- (a) moneys from time to time appropriated by Parliament for that purpose;

- (b) moneys received by the College by way of fees, charges, gifts, bequests or otherwise whether paid or made to the College or the Council;
- (c) moneys borrowed by the College for the purposes of this Act; and
- (d) moneys made available to the Council or the College for the purposes of this Act.

(2) The funds 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 "Western Australian College of Advanced Education Account".

(3) The Council shall apply the funds standing to the credit of the Western Australian College of Advanced Education Account pursuant to and only for the purposes of this Act.

Power to
borrow
money.

37. (1) The Council is authorized with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions as the Treasurer approves.

(2) The Treasurer may in the name and on behalf of the Crown in right of the State guarantee the payment of principal moneys and interest thereon in respect of moneys borrowed by the College under this section and any liability of the Crown arising out of the guarantee is payable out of the Consolidated Revenue Fund which to the extent necessary is appropriated accordingly.

(3) A guarantee given under this section shall be in such form and subject to such conditions as the Treasurer determines and without limiting the generality of the foregoing shall be subject to the condition that the lender shall not, without the consent of the Treasurer, assign or encumber the benefit of the guarantee.

38. Subject to the Public Moneys Investment Act 1961 and with the approval of the Treasurer, the Council may temporarily invest any moneys standing to the credit of the Western Australian College of Advanced Education Account that are not immediately required for the purposes of this Act.

Power of Council to invest.

39. The Council shall cause annual estimates of income and expenditure of the College relating to its administration of the Act to be prepared under such headings and in such manner as the Treasurer may approve or direct, and submit those estimates to the Minister who, if he approves of the estimates, shall cause them to be submitted to the Treasurer not later than a date specified in that regard by the Treasurer.

Council to submit annual estimates of income and expenditure to Minister.

40. (1) The Council shall—

Accounts, audit and annual report.

- (a) cause proper accounts and records to be kept of the transactions and affairs of the College under such heads as the Treasurer from time to time directs; and
- (b) do all such things as are necessary to ensure that—
 - (i) all payments by the College are correctly made and properly authorized; and
 - (ii) adequate control is maintained over the assets of the College and over the incurring of liabilities by the College.

(2) The Council shall as soon as practicable after each thirty-first day of December, cause to be prepared in respect of the year ending on that day a report on the operation of the College during the period of 12 months immediately preceding that day, together with financial statements in such form as the Treasurer approves and submit them to the Minister.

(3) The report of the operations of the College furnished to the Minister under subsection (2) shall include in respect of the Institute, the report required to be made to the Council by the Board of the Institute under section 23 (1).

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

- (a) whether in his opinion the statements are based on proper accounts and records;
- (b) whether in his opinion the statements are properly drawn up in accordance with generally accepted accounting standards so as to present a true and fair view of the transactions for the period and the financial position at the end of that period;
- (c) whether in his opinion the controls exercised by the College are adequate to provide reasonable assurance that the receipt expenditure and investment of moneys and other transactions of the College during the year have been in accordance with this Act; and
- (d) such other matters arising out of the statements as the Auditor General considers should be reported to the Minister.

(5) The Auditor General has for the purposes of this Act all the powers conferred on him by the Audit Act 1904.

(6) The Minister shall cause the report furnished pursuant to subsection (2) together with copies of the financial statements of the College and the report of the Auditor General thereon, to be laid before each House of Parliament as soon as practicable in each year after the receipt by him of all reports.

PART IX—STUDENT GUILD.

41. (1) The student association known as the Western Australian College of Advanced Education Student Guild established under the Colleges Act is continued under the name of the Western Australian College of Advanced Education Student Guild (in this section referred to as the "Student Guild") as though it were established under this Act and in accordance with the Statutes.

Establishment of Student Guild.

(2) The Student Guild under its corporate name—

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may sue and be sued in any court; and
- (d) subject to the Statutes, may do and suffer all other acts and things that bodies corporate may by law do and suffer.

(3) The primary function of the Student Guild shall be to further the common interests of the enrolled students of the College.

(4) The Student Guild shall be the recognized means of communication between the enrolled students and the Council.

(5) Subject to subsection (6) of this section and to the Statutes all enrolled students of the College shall be members of the Student Guild.

(6) A student who—

- (a) declares by writing addressed to the chief executive officer of the College that he has a conscientious objection to being a member of the Student Guild and notifies the Student Guild accordingly; and
- (b) pays from time to time to the Student Guild or to a fund or body established for a charitable purpose nominated either by the Student Guild, or if the student so elects, by the student himself an amount equivalent to the subscription which would be payable if the student were a member of the Student Guild,

is exempted from membership of the Guild.

(7) Members of the Student Guild shall pay to the Student Guild such subscriptions as are from time to time determined by the Student Guild and approved by the Council.

(8) Different subscriptions payable to the Student Guild may be determined and approved under subsection (7) in respect of different classes of students or different classes of membership of the Student Guild.

(9) The Statutes may prescribe—

- (a) the classes of membership and the conditions of or qualifications for membership of the Student Guild;
- (b) the powers, duties and functions of the Student Guild; and
- (c) such other matters and things as are necessary or convenient for the effective exercise of the powers, duties and functions of the Student Guild.

PART X—MISCELLANEOUS.

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

Governor to be Visitor.

(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.

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

Exemption from rate or tax.

(2) Subsection (1) does not operate so as to exempt property that is vested in the College if it is leased to or ordinarily occupied by any other person.

44. No religious test shall be administered to any person in order to entitle that person to be admitted as an enrolled student of the College or to hold office in the College, or to graduate at the College, or to hold any advantage or privilege of the College.

No religious tests.

PART XI—TRANSITIONAL AND SAVINGS.

45. The terms of office of the members of the Council appointed under section 13 of the Colleges Act are hereby terminated by force of this section.

Termination of office.

46. (1) The first Chairman of the Council under this Act shall be appointed by the Governor and the term of his appointment shall be for such period not exceeding 3 years as is specified in his instrument of appointment.

Interim provision for members of the Council.

(2) Until an elective office on the Council is filled for the first time under this Act by the election of a person in the prescribed manner that office shall be filled by a person who has the prescribed qualification for holding that office, and who is appointed by the Minister.

shall retain their existing and accruing rights including their rights in relation to sick leave, long service leave, retirement and pension fund benefits and any service regarded as "service" with the College under the Colleges Act shall be regarded as "service" with the College under this Act.

49. On and from the commencement date all property that was, immediately before that date, held and used for the purposes of the Colleges Act by the College, shall be held and used by the College for the purposes of this Act. Property.

50. The rights and interests of any contributor or pensioner under any superannuation scheme or agreement established or entered into under section 35 or 36 of the Colleges Act shall continue as though the rights and interests of the contributor or pensioner were rights and interests obtained in respect of service under this Act. Super-annuation.

51. The associations formed for the purposes of sections 43 (1) (a) and 43 (1) (b) of the Colleges Act are continued as though they were established for the purposes of this Act. Associations continued.

52. Until a Statute providing for the constitution of a body for the management of the Academy under this Act comes into operation the members of the Board of Management of the Academy holding office as such immediately before the commencement date shall continue in office after that date but the Minister may appoint a person to any office that becomes vacant before the date that the Statute comes into operation. Board of Academy continued.

Continuation
of
rights of
students.

53. The rights and interests in association with enrolment of every student of the College existing immediately before the commencement date shall, subject to the Statutes and rules of the College, continue as though those rights and interests were rights and interests with respect to the College under this Act.
