

WESTERN AUSTRALIAN TERTIARY EDUCATION COMMISSION.

No. 28 of 1976.

AN ACT to amend the Western Australian Tertiary Education Commission Act, 1970-1972.

[Assented to 9th June, 1976.]

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:—

1. (1) This Act may be cited as the *Western Australian Tertiary Education Commission Act Amendment Act, 1976*. Short title and citation.

(2) In this Act the Western Australian Tertiary Education Commission Act, 1970-1972 is referred to as the principal Act.

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(3) The principal Act as amended by this Act may be cited as the Western Australian Post-Secondary Education Commission Act, 1970-1976.

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

Long title amended. 3. The long title to the principal Act is amended by substituting for the word "Tertiary", the word "Post-Secondary".

Section 3 amended. 4. Section 3 of the principal Act is amended by substituting for the word "TERTIARY" in line three, the word "POST-SECONDARY".

Section 4 amended. 5. Section 4 of the principal Act is amended—
(a) by adding after the interpretation "member" interpretations as follows—

"post-secondary education" means all those activities that are concerned with people who seek further education beyond the age of compulsory schooling and outside the institutions of secondary education and includes a form of education declared under section 23 to be post-secondary education for the purposes of this Act;

"post-secondary education institution" means an institution providing or proposing to provide courses at post-secondary education level;

"proclaimed date" means the date fixed by proclamation for the coming into operation of the Western Australian Tertiary Education Commission Act Amendment Act, 1976; ;

- (b) by deleting the interpretations "tertiary education" and "tertiary education institution"; and
- (c) by substituting for the word "Tertiary" in line two of the interpretation "the Commission", the word "Post-Secondary".

6. The heading to Part II of the principal Act is amended by substituting for the word "TERTIARY", the word "POST-SECONDARY".

Heading amended.

7. Section 5 of the principal Act is amended by repealing subsection (1) and substituting subsections as follows—

Section 5 amended.

(1) On and after the proclaimed date the body corporate hitherto established under this Act and called the "Western Australian Tertiary Education Commission" is preserved and continues in existence as a body corporate under and subject to the provisions of this Act to be called the "Western Australian Post-Secondary Education Commission", but so that the corporate identity of the body corporate and its rights and obligations are not affected.

(1a) A reference to the Western Australian Tertiary Education Commission, whether by use of that name or a similar or abbreviated form of that name—

- (a) in a law of the State passed or made before the proclaimed date;
- (b) in any document or other instrument made, executed, entered into or done before the proclaimed date; or
- (c) made before the proclaimed date in any other manner,

shall, unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to the Western Australian Post-Secondary Education Commission.

(1b) For the purposes of subsection (1a) of this section the term "law of the State" means—

- (a) an Act;
- (b) regulations, rules or by-laws having effect by virtue of an Act; and
- (c) an instrument having effect by virtue of an Act or of any regulations, rules or by-laws referred to in paragraph (b) of this subsection.

Section 6
repealed and
re-enacted.

8. The principal Act is amended by repealing section 6 and re-enacting that section as follows—

Constitution
of Commis-
sion.

6. (1) On and after the proclaimed date the Commission shall be constituted as hereinafter provided.

- (2) The Commission shall consist of—
 - (a) a person appointed as Chairman of the Commission who shall also be the chief executive officer of the Commission;
 - (b) the person for the time being holding or acting in the office of Director-General of Education under the Education Act, 1928 or a person appointed by that person by notice in writing addressed to the Minister; and
 - (c) thirteen other members of whom—
 - (i) two shall be selected for their knowledge of and interest in university education and research;
 - (ii) two shall be selected for their knowledge of and interest in advanced education;
 - (iii) one shall be selected for his knowledge of and interest in teacher education;

- (iv) two shall be selected for their knowledge of and interest in technical and further education; and
- (v) six shall be selected for their knowledge of and interest in community affairs in the city and country, employment problems, secondary education, or government.

9. The principal Act is amended by adding after section 6 a section as follows— Section 6A added.

6A. The following provisions apply to and in relation to the Chairman, that is to say— Provisions as to Chairman.

- (a) he shall be appointed by the Governor on the recommendation of the Minister for a term not exceeding seven years;
- (b) the conditions of his service shall be such as the Governor determines;
- (c) he shall be paid such remuneration and allowances as the Governor may from time to time determine;
- (d) he may be re-appointed, from time to time at the expiration of a term of office, unless he has been removed from office by the Governor under paragraph (e) of this section;
- (e) he may, at any time, be removed from office by the Governor for disability, bankruptcy, neglect of duty or misconduct, or if, without the consent of the Governor, he engages in any other remunerative employment; and
- (f) he may at any time resign his office by writing under his hand addressed to the Governor. .

Section 6B
added.

10. The principal Act is amended by adding after section 6 a section as follows—

Provisions
as to
appointed
members.

6B. The following provisions apply to and in relation to the members referred to in paragraph (c) of subsection (2) of section 6, that is to say—

- (a) a member shall be appointed by the Governor on the recommendation of the Minister for such term not exceeding four years as is specified in the instrument of his appointment;
- (b) subject to paragraph (c) of this section, all members, on the expiration of their term of office, are, unless otherwise disqualified, eligible for re-appointment;
- (c) a member who has held office for two successive terms is not thereafter eligible to hold office as a member until the expiry of a period of twelve months from the last day on which he was a member;
- (d) the Minister may grant leave of absence to a member upon such terms and conditions as the Minister determines;
- (e) the Governor may terminate the appointment of a member for inability, inefficiency, or misbehaviour;
- (f) where the appointment of a member is terminated pursuant to paragraph (e) of this section or a member—
 - (i) becomes permanently incapable of performing his duties as a member;
 - (ii) resigns his office by writing under his hand addressed to the Minister;

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

(iv) is convicted of an indictable offence,

his office shall become vacant and shall be filled as a casual vacancy under paragraph (g) of this section;

(g) 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 shall, subject to this Act, hold office as a member for the residue of the term of office of the member whose office has become vacant. .

11. The principal Act is amended by repealing section 8 and re-enacting that section as follows— Section 8
repealed and
re-enacted.

8. Members other than the Chairman shall be paid such remuneration and allowances as the Minister, on the recommendation of the Public Service Board, from time to time determines. . Remunera-
tion.

12. The principal Act is amended by repealing sections 9 and 10. Sections 9
and 10
repealed.

13. The principal Act is amended by repealing section 12 and re-enacting that section as follows— Section 12
repealed and
re-enacted.

12. (1) The Commission shall have the functions set out in subsection (2) of this section and shall perform those functions subject to the Minister and with due regard to the traditional autonomy of universities and to the major role of universities in areas outside the scope of post-secondary education. Functions
of Com-
mission.

(2) The functions of the Commission are—

- (a) to assist the Minister, and the Government of the State, in the formation of State views on the promotion, development and co-ordination of post-secondary education and for that purpose to make recommendations to the Minister on those matters having regard to the needs of the State, the number of students to be provided for, and the financial and other resources available;
- (b) to make recommendations to the Minister and where appropriate, the relevant Commonwealth education Commissions on the establishment and location of, and the acquisition and reservation of sites for, new post-secondary education institutions;
- (c) to advise the relevant Commonwealth education Commissions on—
 - (i) the levels of financial support requested by post-secondary education institutions, or authorities governing such institutions, for the purposes of post-secondary education; and
 - (ii) requests for a variation from an approved triennial programme of a post-secondary education institution or an authority governing such institutions;
- (d) for the purpose of achieving rationalisation of resources and the avoidance of unnecessary duplication, to—
 - (i) advise the governing authorities of the respective post-secondary education institutions; and

- (ii) make recommendations, where appropriate, to the relevant Commonwealth education Commissions, on proposals for the establishment of new post-secondary education courses of study;
- (e) to advise the governing authorities of the respective post-secondary education institutions on—
 - (i) the terms and conditions of appointment and employment, including salary payable, of the staff, whether academic or otherwise of those institutions;
 - (ii) all claims relating to the terms and conditions referred to in subparagraph (i) of this paragraph;
 - (iii) the fees to be charged by and paid to those institutions for classes or courses, examinations, and academic awards conferred; and
 - (iv) the criteria for entrance to those institutions with a view to avoiding multiple examinations and facilitating, where desirable, the movement of students between those institutions;
- (f) to determine, when so requested by a post-secondary education institution or an authority governing such institutions, the minimum requirements for new academic awards and to accredit those awards; and
- (g) to collaborate, where appropriate, with the relevant State and Commonwealth authorities with regard to the preparation of plans for buildings to be used by post-secondary education

institutions, the letting of contracts for the building of such buildings, and the general supervision of building operations in relation to such buildings. .

Section 13
amended.

14. Section 13 of the principal Act is amended by substituting for the word "tertiary" in the last line, the word "post-secondary".

Section 14
repealed and
re-enacted.

15. The principal Act is amended by repealing section 14 and re-enacting that section as follows—

Duties of
Commission.

14. The Commission shall—

- (a) consider requests and submissions of educational institutions and authorities that relate to the proposals of those institutions and authorities for future developments in post-secondary education;
- (b) confer and collaborate, on matters relating to post-secondary education, with educational institutions and authorities and with departments of the Commonwealth and the States of the Commonwealth and other appropriate bodies or instrumentalities of the Commonwealth or the States of the Commonwealth;
- (c) constantly review all aspects of post-secondary education and, on its motion or the request of the Minister, make reports thereon;
- (d) consult with post-secondary education institutions for the purpose of encouraging, where it is desirable and feasible, the shared use of resources such as expert staff, libraries, computers, laboratories and expensive teaching or research equipment;

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- (e) promote and undertake research relevant to the planning, development and effective co-ordination of post-secondary education throughout the State; and
- (f) furnish a report on its activities to the Minister not later than six months after the thirty-first day of each December. .

16. Section 15 of the principal Act is amended by deleting the words "and the Secretary shall be the chief executive officer of the Commission" in lines three and four.

Section 15 amended.

17. Section 17 of the principal Act is amended by adding after the word "Commission" in line five the passage "appointed under section 15 or 16".

Section 17 amended.

18. Section 18 of the principal Act is amended by adding after the word "person" in line one the passage "appointed to the office of Chairman under section 6 or".

Section 18 amended.

19. Section 20 of the principal Act is amended—

Section 20 amended.

- (a) by substituting for the word "Tertiary" in the penultimate line of subsection (2), the word "Post-Secondary"; and
- (b) by adding after subsection (2) a subsection as follows—

(2a) On the proclaimed date, or as soon as practicable thereafter, any money then standing to the credit of an account called the "Western Australian Tertiary Education Commission Account" shall be placed to the credit of the account referred to in subsection (2) of this section. .

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20. Section 21 of the principal Act is amended by substituting for the word "Tertiary" in line two, the word "Post-Secondary".

Section 24
amended.

21. Section 24 of the principal Act is amended by substituting for the passage "paragraph (e)" in line two, the passage "paragraph (f)".
