

WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY.

No. 31 of 1974.

AN ACT to amend the Western Australian Institute
of Technology Act, 1966-1971.

[Assented to 4th November, 1974.]

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 Institute of Technology Act Amendment Act, 1974*. Short title and citation.

(2) In this Act the Western Australian Institute of Technology Act, 1966-1971 is referred to as the principal Act. Act No. 94 of 1966 as amended by Acts Nos. 37 of 1968, 57 of 1969, 57 of 1970, and 49 of 1971

No. 31.] *Western Australian Institute of Technology* [1974.]

(3) The principal Act as amended by this Act may be cited as the Western Australian Institute of Technology Act, 1966-1974.

Amendment to s. 4. (Interpretation.)

2. Section 4 of the principal Act is amended by substituting for the interpretation "prescribed" an interpretation as follows—

"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; .

Amendment to s. 14. (Chief executive officer.)

3. Subsection (3) of section 14 of the principal Act is amended by substituting for the words "conferred or imposed upon him by the Statutes", in lines two and three, the word "prescribed".

Amendment to s. 17. (Power of Council to appoint and dismiss staff.)

4. Section 17 of the principal Act is amended by deleting the words "and the Minister approves", in the last line.

Amendment to s. 18. (Power to award diplomas, etc.)

5. Subsection (2) of section 18 of the principal Act is amended by substituting for the word "common", in line three, the word "graduation".

Amendment to s. 20. (Vesting and control of certain land.)

6. Subsections (4) and (5) of section 20 of the principal Act are repealed.

Addition of s. 20A.

7. The principal Act is amended by adding after section 20 a section as follows—

By-laws.

20A. (1) In this section—

"authorised person" means any member of the Police Force, the chief executive officer of the Institute, or any member of the staff of the Institute authorised by that chief executive officer in

respect of the matters referred to in the provision wherein the expression is used; and

“Institute lands” means land described in the Schedule to this Act and any other land vested in or under the management and control of the Institute for the purposes of this Act and includes all buildings, structures and erections of whatsoever kind or nature and whether permanent or temporary, standing or being on any such lands.

(2) The Institute may, with the approval of the Governor, make by-laws for the purpose of managing, preserving, and protecting Institute 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 Institute;

- (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 authorised person may remove a vehicle, or cause it to be removed, from Institute 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 authorise the Institute to hold the vehicle until the prescribed charges are paid;
- (l) prescribe a modified penalty or modified penalties payable to the Institute 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 pay-

ment of a modified penalty is a defence to a charge of the breach in respect of which that modified penalty was paid;

- (m) authorise any member of the Police Force or any member of the staff of the Institute 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 Institute; and
- (o) generally provide for carrying out 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.

(3) The by-laws—

- (a) may be limited in their application to time, place, or circumstance; 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.

(4) Any by-law may impose a penalty not exceeding fifty dollars for any breach thereof and proceedings for the recovery of such penalty may be taken by any authorised 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 Institute for its use.

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

(6) 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.

(7) 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 Institute instead of before a court of summary jurisdiction.

(8) Any act, matter, or thing for or with respect to which provision is made in this section, made, done, or executed before the coming into operation of the Western Australian Institute of Technology Act Amendment Act, 1974 which would have been lawful if that Act had been in force at the time such act, matter, or thing was made, done, or executed is hereby validated.

Amendment
to s. 22.
(Report and
financial
statements
of Institute.)

8. Section 22 of the principal Act is amended by adding at the end thereof a subsection as follows—

(4) The Minister, with the approval of the Treasurer, may determine that for the purposes of this section in respect of any operation of the Institute, another date may be substituted for the date referred to in subsection (1) of this section, and thereupon this section as modified by the substituted date applies in relation to that operation.

Amendment
to s. 34.
(Power to
make
Statutes.)

9. Section 34 of the principal Act is amended—

(a) by adding after subsection (1b) subsections as follows—

(1c) Without limiting any of the powers conferred by subsection (1) of this section, a Statute with respect to the discipline of the Institute 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 fifty dollars;
- (c) prescribe circumstances under which a penalty may be modified or suspended;
- (d) provide, in addition to penalties, for restitution to the Institute not exceeding one hundred dollars for loss, damage, or destruction of Institute 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 Institute 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 Institute.
- (1d) Without limiting the power of delegation conferred on the chief executive officer of the Institute by section fourteen of this Act, where a Statute, or a by-law or rule made under a Statute, with respect to the discipline of the Institute 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.

(1e) A Statute or a by-law or rule made under a Statute—

- (a) may be limited in its application to time, place, or circumstance; 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. ; and

(b) by adding after subsection (4) a subsection as follows—

(5) It is deemed—

- (a) that the Council has always had all the powers conferred on it by this section as amended by the Western Australian Institute of Technology Act Amendment Act, 1974; and
 - (b) that paragraph (a) of Statute 3, published in the *Government Gazette* on the 14th January, 1969, includes and has always included all the matters referred to in subsection (1c) of this section. .
-