

**WESTERN AUSTRALIAN  
TERTIARY EDUCATION  
COMMISSION.**

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No. 84 of 1970.

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**AN ACT to establish the Western Australian  
Tertiary Education Commission.**

[Assented to 30th November, 1970.]

**B**E 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 Tertiary Education Commission Act, 1970.* Short title.

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

Arrange-  
ment.

3. The arrangement of this Act is as follows—

PART I.—PRELIMINARY, ss. 1-4.

PART II.—THE WESTERN AUSTRALIAN TERTIARY EDUCATION COMMISSION, ss. 5-25.

*Division 1.—Establishment and Constitution of the Commission, ss. 5-11.*

*Division 2.—Functions, Powers and Duties of the Commission, ss. 12-14.*

*Division 3.—Staff, ss. 15-19.*

*Division 4.—Financial Provisions, ss. 20-22.*

*Division 5.—Miscellaneous Provisions, ss. 23-25.*

Interpreta-  
tion.

4. In this Act unless the contrary intention appears—

“Chairman” means Chairman of the Commission and includes Acting Chairman;

“member” means member of the Commission and includes acting member;

“section” means a section of this Act;

“tertiary education” means all forms of post-secondary education and includes a form of education declared under section 23 to be post-secondary education for the purposes of this Act;

“tertiary education institution” means an institution providing or proposing to provide courses at tertiary education level;

“the Commission” means the Western Australian Tertiary Education Commission established by this Act.

PART II.—THE WESTERN AUSTRALIAN TERTIARY EDUCATION COMMISSION.

*Division 1.—Establishment and Constitution of the Commission.*

Establish-  
ment of  
Commission.

5. (1) There is hereby established, for the purposes of this Act, a Commission to be called the “Western Australian Tertiary Education Commission”.

(2) The Commission—

(a) is a body corporate with perpetual succession and shall have a common seal;

- (b) is capable, in its corporate name, of acquiring, holding, and disposing of real and personal property and of suing and being sued in that name;
- (c) is capable of doing and suffering all such acts and things as bodies corporate may do and suffer; and
- (d) has, subject to the Minister, the general administration of this Act.

(3) All courts, judges, and persons acting judicially shall take notice of the seal of the Commission affixed to a document and shall presume that it was duly affixed.

(4) The exercise or performance of the powers or functions of the Commission shall not be affected by reason only of there being a vacancy in the office of a member.

6. (1) The Commission shall consist of—

Constitution  
of  
Commission.

- (a) a person appointed by the Governor, on the recommendation of the Minister, as Chairman of the Commission;
- (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 Under Treasurer of the State or a person nominated in writing by him to the Minister;
- (d) the persons who are for the time being the chief executive officers of the University of Western Australia, Murdoch University, and the Western Australian Institute of Technology, respectively; and
- (e) three persons appointed by the Governor on the recommendation of the Minister.

(2) Subject to this Act, each member other than a member *ex officio* or a member nominated by him holds office for a term of four years from the date of his appointment.

(3) All members, on the expiration of their term of office, are, unless otherwise disqualified, eligible for re-appointment.

(4) 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.

Acting  
members.

7. (1) Where the Minister is satisfied that the Chairman or any other member is incapacitated by illness, absence, or other reasonable cause, from performing the duties of his office, the Minister may appoint a person to be the Acting Chairman to act for the Chairman or an acting member to act for that other member, as the case may be, during his incapacity and that person, while he so acts, shall be deemed to be the Chairman or a member, as the case may be.

(2) The Minister may at any time terminate the appointment of an Acting Chairman or an acting member.

(3) No appointment of an Acting Chairman or an acting member and no act done by him shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Leave of  
absence.

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

Dismissal of  
members.

9. The Governor may terminate the appointment of a member for inability, inefficiency, or misbehaviour.

10. If a member—

Vacation of  
office.

- (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 5 of the Mental Health Act, 1962;
- (d) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors; or
- (e) is convicted of an indictable offence,

his office shall become vacant and shall be filled as a casual vacancy in accordance with subsection (4) of section 6.

11. (1) The Commission shall hold such meetings as are necessary for the performance of its functions.

Meetings of  
Commission.

(2) The Minister or the Chairman may at any time convene a meeting of the Commission.

(3) The Chairman shall convene the first meeting of the Commission as soon as practicable after the coming into operation of this Act and shall preside at all meetings of the Commission at which he is present.

(4) Where the Chairman is absent from a meeting of the Commission and an Acting Chairman has not been appointed under section 7, or having been so appointed the Acting Chairman is also absent, the members present at the meeting shall elect a member to preside at that meeting and while so presiding the member has all the powers and duties of the Chairman.

(5) At a meeting of the Commission—

- (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 present.

(6) Subject to this Act and regulations, the Commission may regulate its procedure in such manner as it thinks fit.

*Division 2.—Functions, Powers and Duties of the Commission.*

Functions of Commission.

12. The functions of the Commission are—

- (a) subject to the Minister, to promote, develop, and co-ordinate tertiary education having regard to the needs of the State and the financial and other resources available to it;
- (b) to consider the future development of tertiary education institutions including the establishment and development of new ones and, for that purpose, to confer with appropriate authorities in the State on the selection of sites and recommend to the Minister the acquisition and reservation of sites;
- (c) to review submissions of tertiary education institutions relating to triennial programmes and make recommendations to the Minister on the levels of financial support requested in those submissions;
- (d) to consider any request for a variation from an approved triennial programme of a tertiary education institution and make recommendations thereon to the appropriate Commonwealth or State authority;
- (e) to consider—
  - (i) the terms and conditions of appointment and employment, including salary payable, of the staff, whether academic or otherwise, of each tertiary education institution; and

- (ii) all claims relating to those terms and conditions,  
and make recommendations thereon to the governing authority of the institution;
- (f) to consider the fees to be charged by and paid to each tertiary education institution for classes or courses, examinations, and academic awards conferred and make recommendations thereon to the governing authority of the institution;
- (g) to consider proposals for the establishment of new tertiary education courses of study and to make recommendations thereon to the governing authorities of the respective tertiary education institutions for the purpose of achieving rationalisation of resources and the avoidance of unnecessary duplication;
- (h) to co-ordinate the criteria for entrance to tertiary education institutions for the purpose of avoiding multiple examinations; and
- (i) to determine the minimum requirements for new academic awards by tertiary education institutions and accredit those awards.

13. The Commission may do all things necessary or convenient to be done for or in connection with the performance of its functions and without limiting the generality of the foregoing may set up committees to investigate and advise the Commission on any aspect of tertiary education.

Power of the Commission.

14. The Commission—

- (a) shall, on matters relevant to tertiary education, confer and collaborate with departments of the Commonwealth and the

Duties of the Commission.

States of the Commonwealth, the Australian Universities Commission, the Commonwealth Advisory Committee on Advanced Education and other bodies or instrumentalities of the Commonwealth or the States of the Commonwealth;

- (b) shall constantly review all aspects of tertiary education and, on its own motion or the request of the Minister, make reports to him thereon;
- (c) shall encourage and, where appropriate, promote co-ordination between tertiary education institutions;
- (d) shall promote and undertake research into the needs and problems of tertiary education; and
- (e) shall furnish a report on its activities to the Minister not later than six months after the thirty-first day of each December.

*Division 3—Staff.*

Secretary.

15. The Governor, on the recommendation of the Commission, shall appoint a person to be the Secretary of the Commission and the Secretary shall be the chief executive officer of the Commission.

Other officers and employees.

16. Subject to this Act, the Commission may appoint such officers or employees as it thinks fit for the purposes of this Act, subject to the approval of the Minister.

Terms and conditions of appointment and employment.

17. Subject to any relevant award or industrial agreement in force under the Industrial Arbitration Act, 1912, the terms and conditions of appointment and employment of officers or employees of the Commission, including the salary payable, are such terms and conditions as the Minister, on the recommendation of the Commission, approves.



18. Where any person appointed under section 15 or 16 was, immediately before being so appointed, an officer of the Public Service of the State or an officer appointed under the Education Act, 1928—

Preservation of rights of officers and employees.

- (a) he retains his existing and accruing rights and in particular his rights, if any, under the Superannuation and Family Benefits Act, 1938; and
- (b) for the purpose of determining those rights, his service as such an officer shall be taken into account as if it were service with the Commission.

19. (1) The Commission shall request that the inclusion of the Commission 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 be approved by the Treasurer.

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

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

if the Commission 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 6 of the Superannuation and Family Benefits Act, 1938,

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

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

*Division 4.—Financial Provisions.*

Funds of the Commission.

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

- (a) moneys from time to time appropriated by Parliament for that purpose;
- (b) moneys received by the Commission by way of gifts, bequests, or otherwise; and
- (c) any other moneys made available to the Commission for the purposes of this Act.

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

(3) All expenditure incurred by the Commission for the purposes of giving effect to this Act shall be paid from the account referred to in subsection (2) of this section.

Power of Commission to invest certain moneys.

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

Annual estimates of Commission.

22. (1) The Commission 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 Commission in connection with the carrying out of the functions of the Commission.

(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 5.—Miscellaneous Provisions.*

23. The Minister may, by instrument in writing, declare a form of education to be post-secondary education for the purposes of this Act. Declaration of Minister.

24. The Minister shall lay the report mentioned in paragraph (e) of section 14 before each House of Parliament within twelve sitting days of that House after the receipt of the report from the Commission by the Minister. Tabling of report.

25. The Governor may make regulations not inconsistent with this Act prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act. Regulations.