

WESTERN AUSTRALIA.

**WESTERN AUSTRALIAN
INSTITUTE OF TECHNOLOGY.**

No. 94 of 1966.¹

[As amended by Acts:

No. 37 of 1968, assented to 4th November, 1968;
No. 57 of 1969, assented to 29th September, 1969;
No. 57 of 1970, assented to 5th November, 1970;
No. 49 of 1971, assented to 10th December, 1971;
No. 31 of 1974, assented to 4th November, 1974,

and reprinted pursuant to the Amendments Incorporation Act,
1938.]

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

[Assented to 12th December, 1966.]

BE it enacted—

1. This Act may be cited as the *Western
Australian Institute of Technology Act, 1966-1974.*

Short title.
Amended by
No. 31 of
1974, s. 1.

2. This Act shall come into operation on a date
to be fixed by proclamation.¹

Commence-
ment.

¹ Came into operation 26/5/67. See *Gazette* 26/5/67, pp. 1363-4.

Arrange-
ment.

3. The arrangement of this Act is as follows—

PART I.—THE WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY.

Division 1.—The Institute.

Division 2.—The Council.

Division 3.—Financial Provisions.

Division 4.—Miscellaneous Provisions.

Division 5.—Statutes.

PART II.—TRANSITORY PROVISIONS—INTERIM COUNCIL.

Interpre-
tation.

Amended by
No. 49 of
1971, s. 2;
No. 31 of
1974, s. 2.

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

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

“Chairman” means the Chairman of the Council;

“Council” means the Council of the Institute;

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

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

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

“member” means a member of the Council;

“Minister” means the Minister for Education;

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

“Scheme” means the Western Australian Institute of Technology Superannuation Scheme established under section thirty A of this Act and if that Scheme is, under that section, amended means that Scheme as amended from time to time;

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

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

PART I.—THE WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY.

Division 1.—The Institute.

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

Establishment and incorporation of Western Australian Institute of Technology.

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

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

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

Common
Seal of
Institute.

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

Judicial
notice.

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

Functions
of the
Institute.
Amended by
No. 57 of
1970, s. 2.

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

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

- (g) to provide such facilities relating to the foregoing objects as the Council thinks necessary or conducive for their attainment.

Division 2.—The Council.

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

9. (1) The Council shall consist of—
- (a) six persons appointed by the Governor representative of the professions and industrial and commercial interests;
 - (b) [*Repealed by No. 57 of 1969, s. 2.*]
 - (c) the person for the time being holding the office of Director-General of Education under the Education Act, 1928, or a person nominated in writing by him to the Minister;
 - (d) the person for the time being holding the office of Director of Technical Education under the Education Act, 1928;
 - (e) [*Deleted by No. 57 of 1970, s. 3.*]
 - (f) the person for the time being appointed the chief executive officer of the Institute;
 - (g) two persons who are members of the full time academic staff of the Institute elected by members of that staff;
 - (ga) two persons who are members of the Student Guild, one at least being a voting member of its Council, and who are elected by the voting members of that Council after nomination by such members of that Guild as are prescribed by Statute, the provisions of which may differ in respect of each person to be so elected;
- Constitution of Council.**
Amended by
No. 57 of 1969, s. 2;
No. 57 of 1970, s. 3;
No. 49 of 1971, s. 3.

- (h) the person who not being a member of the Council at the time of his appointment as Chairman, is appointed Chairman pursuant to section eleven of this Act; and
- (i) three persons appointed from time to time by co-option by the Council but a person whose sole or principal employment is that of a member of the academic staff of the Institute may not be so appointed.

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

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

(3a) Each member appointed under paragraph (ga) of subsection (1) of this section holds office as a member for a term of one year from the date of his appointment and shall not be so appointed more than twice.

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

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

(6) Where a casual vacancy occurs in the office of a member—

- (a) the vacancy may, subject to paragraph (b) of this subsection, be filled by a person who has the like prescribed qualification, if any, as that of the member whose office has become vacant and who has been appointed, elected, or co-opted, as the case requires, in the manner in which the member whose office has become vacant was appointed, elected, or co-opted;
- (b) if the vacancy is in the office of an elected member and it has not, within three months after it occurs, been filled in accordance with paragraph (a) of this subsection, 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
- (c) 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.

10. If a member—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) is an incapable person within the meaning of section five of the Mental Health Act, 1962;
- (d) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (e) is convicted of an indictable offence;
- (f) is absent without leave of the Council from six consecutive meetings of the Council; or

Vacation of office.
Amended by
No. 49 of
1971, s. 4.

- (g) ceases to hold any qualification required for his becoming or being a member,

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

Meetings
of Council.

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

Chairman.

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

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

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

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

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

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

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

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

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

Vote of member having a pecuniary interest.

13. (1) At a meeting of the Council—

Quorum.

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

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

Decision on question.

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

Vacancy not to affect powers, functions of Council.

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

Chief executive officer.
Amended by No. 31 of 1974, s. 3.

(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.

15. (1) The Council may, in relation to any matter or class of matters, or in relation to any activity or function of the Institute, by resolution

Delegation by Council.

delegate all or any of its powers, authorities, duties and functions under this Act, except this power of delegation and its powers in relation to the making of Statutes or by-laws, to any member or to a committee consisting of members appointed by the Council or to any officer or officers of the Institute.

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

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

Power of
Management
of Council.

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

Power of
Council
to appoint
and dismiss
staff.
Amended by
No. 31 of
1974, s. 4.

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

Power of
Institute to
provide
housing.
Added by
No. 57 of
1969, s. 3.

17A. The Institute may provide housing accommodation for a member of the staff of the Institute, whether a member of the academic or non-academic staff.

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

Power to award diplomas, etc.

(a) appropriate degrees, diplomas and certificates; and

Amended by No. 57 of 1970, s. 4;

(b) appropriate honorary awards.

No. 31 of 1974, s. 5.

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

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

Power to establish branches.

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

Vesting and control of certain land.

Amended by No. 37 of 1968, s. 2;

No. 31 of 1974, s. 6.

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

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

(a) on condition to use the leased land only as a place for the residence or education and residence of enrolled students and for such other purposes connected therewith or subordinate thereto as are specified in the lease;

(b) on such other conditions and with such covenants as the Council thinks fit.

(4) [*Repealed by Act No. 31 of 1974, s. 6.*]

(5) [*Repealed by Act No. 31 of 1974, s. 6.*]

By-laws.

Added by
No. 31 of
1974, s. 7.

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 payment 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.

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

Powers of Council.
Amended by No. 57 of 1970, s. 5.

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

Division 3.—Financial Provisions.

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

Report and financial statements of Institute.
Amended by No. 31 of 1974, s. 8.

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

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show a true and correct view of the financial position and transactions of the Institute;
- (c) whether the receipt, expenditure and investment of moneys and other transactions of the Institute during the year to which the financial statements relate, have been in accordance with this Act; and
- (d) as to such other matters arising out of the financial statements as the Auditor General considers should be reported to the Minister.

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

(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.

Funds of
Institute.
Amended by
No. 57 of
1969, s. 4.

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

- (a) moneys from time to time appropriated by Parliament for that purpose;
- (b) moneys received by the Council by way of fees, charges, gifts, bequests or otherwise

whether paid or made to the Institute or the Council;

- (c) moneys borrowed by the Institute under this Act; and
- (d) moneys made available to the Council or the Institute for the purposes of this Act.

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

(3) All expenditure incurred by the Council for the purposes of giving effect to this Act, including the repayment of moneys borrowed by or advanced to the Institute in accordance with this Act, shall, subject to subsection (4) of this section, be paid from the account referred to in subsection (2) of this section.

(4) Expenditure incurred for the purposes of giving effect to section seventeen A of this Act shall be paid out of such moneys in the account referred to in subsection (2) of this section as the Treasurer approves.

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

Power of Institute to borrow.

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

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

Scheme of loan.

- (a) the amount of the proposed loan and the terms and other particulars thereof;

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

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

Appropriation.

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

Power of Institute to invest certain moneys.

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

Annual estimates of Institute.

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

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

Division 4.—Miscellaneous Provisions.

Governor to be visitor.

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

(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.

*Vide s. 23
Act No. 30
of 1913.*

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

*Prohibition
of religious
tests.*

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

*Preservation
of right of
officers and
employees.*

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

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

*Amended by
No. 49 of
1971, s. 5.*

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

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

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

(3) A member of the staff, officer or employee of the Institute is not compelled to become a contributor for pension, superannuation or benefits under

an agreement entered into by the Council pursuant to this section unless he is so compelled pursuant to a condition of his appointment under section fourteen or seventeen of this Act but, if he is such a contributor, he shall not be a member of the Scheme.

Western
Australian
Institute of
Technology
Super-
annuation
Scheme.

Added by
No. 49 of
1971, s. 6

30A. (1) The Council may establish and maintain a scheme to be called the "Western Australian Institute of Technology Superannuation Scheme" to make financial provision in respect of the retirement, invalidity or death of such members of the staff, officers and employees of the Institute as the Council, subject to subsection (3) of section thirty of this Act, decides may be members of the Scheme and as become such members.

(2) The Council may make agreements with other educational or research institutions for the establishment of joint machinery to facilitate the transfer of members of a superannuation scheme controlled by one of the institutions from that scheme to a superannuation scheme controlled by another of the institutions and generally in relation to matters affecting the Scheme.

(3) The Council may amend the Scheme or by further agreement amend an agreement made under subsection (2) of this section but any amendment to the Scheme or an agreement shall not prejudice any right that has accrued under the Scheme or the agreement before the amendment.

(4) A member of the staff, officer or employee of the Institute whom the Council decides may be a member of the Scheme is not compelled to become such a member unless he is so compelled pursuant to a condition of his appointment under section fourteen or seventeen of this Act but, if he is such a member, he shall not be a contributor for pension, superannuation or benefits under an agreement entered into by the Council pursuant to section thirty of this Act.

Validation.

Added by
No. 49 of
1971, s. 6.

30B. Any act, matter or thing for or with respect to which provision is made in this Act made, done or executed before the coming into operation of the Western Australian Institute of Technology Act

Amendment Act, 1971 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.

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

Power to vest certain lands in the Council.

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

Amended by No. 37 of 1968, s. 3.

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

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

(2) The Institute shall hold and use the land so vested under and subject to this Act and for the purposes thereof.

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

Application of moneys received by Council.

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

Exemption from tax or rate.

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

Amended by No. 37 of 1968, s. 4.

Division 5.—Statutes.

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

Power to make Statutes.

(a) the management, good government and discipline of the Institute;

Amended by No. 37 of 1968, s. 5;

(b) the use and custody of the common seal of the Institute, and the functions of the

No. 57 of 1970, s. 6;

No. 49 of 1971, s. 7;

No. 31 of 1974, s. 9.

- Council that may be exercised without the use of the common seal for that purpose;
- (c) the organisation and supervision of the teaching of enrolled students;
 - (d) the staff of the Institute and its branches;
 - (e) the manner and time of convening, holding and adjourning the meetings of the Council, the manner of voting at those meetings, the powers and duties of the Chairman, the conduct and record of the business, the appointment of committees of the Council and the quorum, powers and duties of those committees;
 - (f) the entrance standards for students;
 - (g) the granting of appropriate degrees, diplomas and certificates or honorary awards by the Institute;
 - (h) the granting of scholarships, exhibitions, bursaries and prizes;
 - (i) the fees to be charged for courses of study or instruction, examinations, degrees, diplomas and certificates of the Institute and for such other facilities or privileges of the Institute as are prescribed;
 - (j) the admission of graduates and students of other institutes of technology or educational institutions to any corresponding status in the Institute without examination;
 - (k) the recognition, instead of or for the purpose of any examination or course of study, of any course of study completed or examination passed in any educational institution;
 - (l) the establishment by the Council of hostels and halls of residence for enrolled students and the management, control and closing of any of those hostels and halls;

- (m) the government of colleges, hostels and halls of residence that are under the control of the Council, the affiliation of colleges, hostels and halls of residence that are not under the control of the Council and the licensing and supervision of boarding houses catering for enrolled students and for the revocation of the licensing thereof; and
- (n) the control and investment of the property of the Institute.

(1a) All fees imposed by or paid to the Council or the Institute before the commencement of this subsection, shall be deemed to be lawfully imposed or collected under this Act.

(1b) Without limiting any of the powers conferred by subsection (1) of this section, the Council may make a Statute furthering or facilitating the objects or operation of this Act with respect to long service leave entitlements of members of the staff of the Institute and in particular—

- (a) providing for lump sum payments instead of long service leave entitlements;
- (b) providing for lump sum payments for *pro rata* long service leave entitlements—
 - (i) to members of the staff who retire after attaining the age of sixty years or through ill-health;
 - (ii) to female members of the staff who resign from the staff of the Institute because of, or with a view to, marriage and to female members of the staff who continue as such after their marriage;
 - (iii) to other members of the staff;
 - (iv) in the case of death of a member of the staff, to his estate, unless he is survived by a widow legally dependent on him, or other person legally

so dependent who is approved by the Council for the purpose; and

- (v) in relation to each class of members of the staff to prescribe the minimum qualifying continuous service,

but so that the calculation of the amounts of leave or money to any member of the staff shall be based upon the rate of salary of the member at the date of his retirement, resignation or death, as the case may be; and so that no payment that exceeds the equivalent of twelve months' salary shall be paid under the Statute.

(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.

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

Power
to make
by-laws and
rules.

(3) The Statutes may provide for—

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

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

(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.

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

Statutes to be approved by Governor and published.

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

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

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

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

PART II.—TRANSITORY PROVISIONS—INTERIM
COUNCIL.

Date of
Constitution
of Council.
Amended by
No. 37 of
1968, s. 6.

36. (1) The Council shall be duly constituted as provided in section nine of this Act on a date to be fixed by proclamation¹ which date is in this and the following sections of the Act called the "appointed date".

(2) The appointed date shall not be earlier than the 1st January, 1969 and not later than the 31st March, 1969.

Provision
for Interim
Council.

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

Constitution
of Interim
Council.

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

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

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

¹ Council constituted on 31st March, 1969. See *G.G.* 28/3/69, p. 1088.

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

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

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

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

39. Upon a date to be fixed by proclamation¹ the Institute shall be incorporated as a body corporate in accordance with the foregoing provisions of this Act, notwithstanding that the Council is not then constituted.

Incorporation of Institute.

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

Powers of Interim Council.

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

Application of foregoing provisions of this Act to Interim Council.

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

¹ Proclamation in G.G. 14/7/67, p. 1809.

apply with the necessary modifications in respect of the Interim Council and the committees constituted and appointed thereby as if they were in terms made applicable to the Interim Council and those committees.

Term of
office of
Members
of Interim
Council.

42. (1) Members of the Interim Council shall, subject to this Act, hold office until the constitution of the Council pursuant to this Act.

(2) Upon the constitution of the Council the Interim Council shall be dissolved and its members shall go out of office as such members but are eligible to be appointed members of the Council and any such appointment shall be deemed to be a first appointment.

(3) The Institute shall be deemed to be the same body corporate before and after the dissolution of the Interim Council and the constitution of the Council and no act or thing done or commenced by the Interim Council abates or is affected by that dissolution.

Duty of
Interim
Council.

43. The Interim Council shall take all such steps as may be necessary in order that the Council may be duly constituted upon the appointed date.

Student
Guild.
Added by
No. 37 of
1968. s. 7.

44. (1) For the purposes of this Act, there shall be established, upon the making, under section thirty-four of this Act, of the Statute referred to in subsection (4) of this section, an organised association of enrolled students by the name of the Student Guild.

(2) When established, the Student Guild shall be a body corporate by that name and under that corporate name—

- (a) shall have perpetual succession;
- (b) shall have a common seal;

- (c) may sue and be sued in any court;
- (d) may do and suffer all other acts and things that bodies corporate may by law do and suffer; and
- (e) shall be the recognised means of communication between the enrolled students and the Council.

(3) The primary function of the Student Guild is to further the common interests of its members.

(4) For the purposes of this section a Statute shall be made prescribing—

- (a) the conditions of membership of the Student Guild; and
- (b) in addition to the function referred to in subsection (3) of this section, the powers, duties and functions of the Student Guild,

and the Statute may prescribe such other matters and things as are necessary or convenient for the effective exercise of those powers, duties and functions.

SCHEDULE.

So much of the land comprising Reserve ↑27142 being Canning Location number 1884 comprising 276 acres 27 perches or thereabouts, as the Governor may from time to time, by Order in Council published in the *Government Gazette*, vest in the Institute under section twenty of this Act.

Section 20.

Amended by
No. 37 of
1968, s. 8.