

# TECHNICAL AND FURTHER EDUCATION COMMISSION ACT 1975

## No. 42 of 1975

An Act to make provision for and in relation to the Establishment of a Commission on Technical and Further Education.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. This Act may be cited as the *Technical and Further Education Commission Act 1975*.<sup>1</sup> Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup> Commence-  
ment.

3. (1) In this Act, unless the contrary intention appears— Interpret-  
ation.

“acting member” means an acting member of the Commission appointed under section 10;

“Chairman” means the Chairman of the Commission;

“college of advanced education” means an institution or proposed institution that is an institution providing advanced education for the purposes of the *Commission on Advanced Education Act 1971-1973*;

“Commission” means the Technical and Further Education Commission established by this Act;

“Deputy Chairman” means the Deputy Chairman of the Commission;

“financial assistance”, in relation to an institution providing technical or further education, includes assistance by way of expenditure of moneys by the government of Australia for the purposes of the institution;

“full-time member” means the Chairman or the Deputy Chairman;

“institution providing technical and further education” means—

(a) any institution (other than a university or school) in Australia providing technical and further education, being an institution conducted by or on behalf of the government of Australia or the government of a State; or

(b) an institution or proposed institution specified in a direction for the time being in force under section 4;

“member” means a full-time member or a part-time member;

“part-time member” means a member of a Commission other than a full-time member;

“school” has the same meaning as in the *Schools Commission Act* 1973;

“student residence” means a hall, college or other establishment at which students of an institution providing technical and further education, or of 2 or more such institutions, reside, being an establishment administered by, or by a body established by, the authority or body administering that institution or those institutions or all or any of the authorities or bodies administering those institutions, as the case may be;

“technical and further education” means education provided by way of a course of instruction or training—

- (a) that is, or that is preparatory to, a course of a kind relevant to a trade, technical or other skilled occupation; or
- (b) that otherwise meets the educational needs of persons who are not enrolled in a full-time course of primary or secondary education at a school;

“university” means an institution or proposed institution that is a university for the purposes of the *Universities Commission Act* 1959-1974.

(2) A reference in this Act to an institution providing technical and further education includes a reference to a body, authority or instrumentality providing technical and further education that is specified in a direction for the time being in force under section 4.

Power to  
give  
direction.

4. For the purposes of this Act, the Minister may direct, in writing, that this Act applies in relation to—

- (a) a proposed institution in Australia (not being a university or a school) specified in the direction, being an institution at which it is proposed that technical and further education will be provided;
- (b) a body, authority or instrumentality (other than a body, authority or instrumentality conducted for the profit, direct or indirect, of an individual or individuals) that provides in Australia technical and further education, and is specified in the direction; and
- (c) an institution in Australia (not being a university) that is, or is included in a class of institutions, specified in the direction, being an institution providing technical and further education and conducted otherwise than for the profit, direct or indirect, of an individual or individuals.

Technical  
and Further  
Education  
Commission.

5. There is established by this Act a Commission by the name of the Technical and Further Education Commission.

6. (1) The functions of the Commission are to inquire into, and to furnish information and advice to the Minister with respect to, the following matters:—

Functions of Commission.

- (a) the general development of technical and further education in Australia;
- (b) the desirable standards for buildings, equipment, teaching and other staff and other facilities (including student residences) at, or connected with, institutions providing technical and further education in Australia, and the means of attaining and maintaining those standards;
- (c) the needs, in respect of buildings, equipment, staff and other facilities (including student residences), of institutions providing technical and further education, and the respective priorities to be given to the satisfying of those various needs;
- (d) matters in connexion with the grant by Australia of financial assistance to the States for and in respect of institutions providing technical or further education, including matters relevant to the necessity for financial assistance to be so granted by Australia;
- (e) the conditions (if any) upon which financial assistance referred to in paragraph (d) should be granted and the amounts and allocation of any financial assistance so granted; and
- (f) any other matter relating to technical and further education that may be referred to the Commission by the Minister or which the Commission considers to be a matter that should be inquired into by the Commission.

(2) In addition to the functions of the Commission conferred by sub-section (1), the Commission shall have such other functions as are conferred on it, either expressly or by implication, by or under any other Act.

(3) The functions conferred on the Commission by sub-section (1) do not extend to inquiring into, or furnishing information or advice with respect to, matters of a kind referred to in paragraph (1) (b), (c) or (d) that relate to courses of study that are provided, or are proposed to be provided, by an institution and are approved as courses of study, or proposed courses of study, in respect of the institution for the purposes of the *States Grants (Advanced Education) Act 1972-1974*.

7. (1) In the performance of its functions under this Act, the Commission shall consult with the Universities Commission, the Commission on Advanced Education, the Schools Commission and the authorities in the States, the Australian Capital Territory and the Northern Territory responsible for the provision of technical and further education and may consult with such other persons, bodies or authorities as the Commission thinks necessary.

Performance of functions.

(2) The Commission shall perform its functions with a view to promoting—

- (a) the balanced development of the provision of technical and further education in Australia; and
- (b) opportunities for all persons to avail themselves of comparable facilities for undertaking technical and further education in Australia.

(3) In the performance of its functions under this Act, the Commission shall have regard to—

- (a) the requirements of persons for particular kinds of technical and further education in Australia;
- (b) any information available to it concerning the requirements of Australia for persons possessing training or skills of a kind that can be acquired by undertaking courses of technical and further education; and
- (c) the need, in relation to technical and further education and in institutions providing technical and further education, to promote the economic use of resources.

(4) For the purposes of the performance of its functions, the Commission may undertake, or cause to be undertaken, such research as it thinks necessary in the matters that relate to the functions of the Commission.

**Reports.**

**8.** (1) The Commission shall at such times and in respect of such periods as the Minister directs, furnish to the Minister reports containing recommendations with respect to the matters referred to in paragraphs 6 (1) (d) and (e).

(2) The Minister shall, as soon as practicable, cause each report under sub-section (1) to be laid before each House of Parliament.

(3) In addition to the reports referred to in sub-section (1), the Commission shall furnish to the Minister such reports as the Minister requires and may furnish such other reports as the Commission thinks fit.

**Establishment of Commission.**

**9.** (1) The Commission shall consist of—

- (a) a Chairman;
- (b) a Deputy Chairman; and
- (c) such number of other members, not being less than 5 nor more than 10, as is from time to time prescribed.

(2) A member shall be appointed by the Governor-General.

(3) A full-time member shall be appointed for a term not exceeding 7 years and a part-time member shall be appointed for a term not exceeding 3 years.

(4) A member is eligible for re-appointment.

(5) The performance of the functions of the Commission is not affected by reason only of there being a vacancy in the office of a member.

(6) For the purposes of sub-sections 4 (3A) and (4) of the *Superannuation Act* 1922-1974, a full-time member shall be deemed to be required by the terms of his appointment to give the whole of his time to the duties of his office.

10. (1) Where there is a vacancy in the office of Chairman or Deputy Chairman or the Chairman or Deputy Chairman is, or is expected to be, absent from duty or from Australia, the Minister may appoint another member, or an acting member, to be acting Chairman or acting Deputy Chairman of the Commission until the filling of the vacancy or during the absence, as the case may be. Acting appointments.

(2) In the event of a vacancy in the office of a part-time member or of the inability (whether on account of illness or otherwise) of a part-time member to attend meetings of the Commission, the Minister may appoint a person to be an acting member of the Commission in place of the member until the filling of the vacancy or during that inability, as the case may be.

(3) If a member or acting member is at any time appointed to be acting Chairman or acting Deputy Chairman, his office shall, during the period of his appointment, be deemed, for the purposes of this section, to be vacant.

(4) The Minister may—

- (a) determine the terms and conditions of appointment of a person appointed under this section; and
- (b) at any time terminate such an appointment.

(5) The validity of a decision of the Commission shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

11. (1) A member of the Commission shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed. Remuneration.

(2) A member of the Commission shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973-1974.

Leave of absence.

**12.** The Minister may grant leave of absence to a member, or to an acting member, upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Termination of appointments.

**13.** (1) The Governor-General may terminate the appointment of a member by reason of the misbehaviour, or the physical or mental incapacity, of the member.

(2) If a member—

(a) being a full-time member—

(i) engages in paid employment outside the duties of his office without the approval of the Minister; or

(ii) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days, or for 28 days in any 12 months;

(b) being a part-time member—is absent, except on leave of absence granted by the Minister, from 3 consecutive meetings of the Commission; or

(c) whether a full-time member or a part-time member—becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Governor-General shall terminate the appointment of the member.

Resignation.

**14.** A member, or an acting member, may resign his office by writing under his hand delivered to the Minister, but the resignation does not have effect until it is accepted by the Minister.

Rights of Public Servants appointed as full-time members.

**15.** If a full-time member was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928-1973* applied—

(a) he retains his existing and accruing rights;

(b) for the purpose of determining those rights, his service as a full-time member shall be taken into account as if it were service in the Public Service; and

(c) the *Officers' Rights Declaration Act 1928-1973* applies as if this Act and this section had been specified in the Schedule to that Act.

Meetings.

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

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

(3) In the event of the inability of the Chairman (whether on account of illness or otherwise) to convene a meeting of the Commission, the Deputy Chairman may convene a meeting of the Commission.

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

(5) If the Chairman is not present at a meeting, the Deputy Chairman shall, if present, preside at the meeting.

(6) If the Chairman and the Deputy Chairman are not present at a meeting, the members present shall appoint one of their number to preside at the meeting.

(7) At a meeting of the Commission—

(a) if the Commission consists of not more than 10 members—5 members; or

(b) in any other case—6 members,

constitute a quorum.

(8) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting.

(9) The member presiding at the meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(10) In this section—

(a) a reference to the Chairman shall, if there is an acting Chairman, be read as a reference to the acting Chairman;

(b) a reference to the Deputy Chairman shall, if there is an acting Deputy Chairman, be read as a reference to the acting Deputy Chairman; and

(c) a reference to a member shall be read as including a reference to an acting member.

**17.** (1) The Minister may, at the request of the Commission, Committees. appoint a committee to assist the Commission in relation to a matter specified in the request.

(2) The committee appointed under sub-section (1) shall consist of such persons, whether members of the Commission or not, as the Minister thinks fit.

(3) A member of a committee shall be paid such fees and allowances as are prescribed, and shall hold office on such other terms and conditions as the Minister determines.

(4) A committee shall make such inquiries, and furnish to the Commission such reports, in connexion with the matter in relation to which it has been appointed as the Commission directs.

**18.** (1) The staff necessary to assist the Commission shall be persons Staff of Commission. employed under the *Public Service Act* 1922-1974.

(2) The Chairman of a Commission has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act 1922-1974*, so far as those powers relate to the branch of the Public Service comprising the staff referred to in sub-section (1) as if that branch were a separate Department of the Public Service.

(3) For the purposes of sub-section 25 (5) and (6) of that Act the Chairman shall be deemed to be a Permanent Head.

(4) In this section, "Chairman" includes an acting Chairman.

**Regulations.**     **19.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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#### NOTE

1. Act No. 42, 1975; assented to 27 May 1975.