

TERTIARY EDUCATION COMMISSION ACT 1977

No. 25 of 1977

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TERTIARY EDUCATION COMMISSION ACT 1977

No. 25 of 1977

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

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

PART I—PRELIMINARY

1. This Act may be cited as the *Tertiary Education Commission Act* 1977.¹ Short title.
2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
3. The following Acts are repealed:— Repeal.
 - Australian Universities Commission Act* 1959;
 - Australian Universities Commission Act* 1962;
 - Australian Universities Commission Act* 1965;
 - Australian Universities Commission Act* 1967;
 - Australian Universities Commission Act* 1968;
 - Australian Universities Commission Act* 1971;
 - Universities Commission Act* 1974;
 - Australian Commission on Advanced Education Act* 1971;
 - Commission on Advanced Education Act* 1973;
 - Technical and Further Education Commission Act* 1975.
4. (1) In this Act, unless the contrary intention appears— Interpretation.
 - “acting member”, in relation to a Council, means a person acting as a member of that Council;
 - “Chairman” means the Chairman of the Commission;
 - “college of advanced education” means, subject to the regulations, an institution specified in Schedule 2;
 - “Commission” means the Tertiary Education Commission established by this Act;
 - “Commissioner” means the Chairman or another Commissioner holding office under section 10;
 - “Council” means the Universities Council, the Advanced Education Council or the Technical and Further Education Council established by this Act;

- “financial assistance”, in relation to a tertiary institution, includes assistance by way of expenditure of moneys by the Government of the Commonwealth for the purposes of the institution;
- “full-time Commissioner” means a Commissioner appointed as a full-time Commissioner;
- “member”, in relation to a Council, means a member of that Council other than the Chairman of that Council;
- “part-time Commissioner” means a Commissioner appointed as a part-time Commissioner;
- “prescribed Commonwealth institution” means an institution established, or proposed to be established, by the Commonwealth for the provision of tertiary education and declared by regulations to be a prescribed Commonwealth institution for the purposes of this Act;
- “school” has the same meaning as in the *Schools Commission Act 1973*;
- “technical and further education” means education provided by way of a course of instruction or training that is, or that is preparatory to, a course of a kind relevant to a trade, technical or other skilled occupation or that otherwise meets educational needs, not being—
- (a) education provided at a university or at a prescribed Commonwealth institution;
 - (b) education provided at a college of advanced education, other than education provided by way of a course declared by the Commission, by resolution, not to be a course of advanced education; or
 - (c) primary or secondary education provided by way of a full-time course in a school;
- “technical and further education institution” means—
- (a) any institution (other than a college of advanced education or a school) that provides technical and further education, being—
 - (i) an institution in a State conducted by or on behalf of the government of the State; or
 - (ii) an institution in a Territory (other than an institution declared by the Minister not to be an institution to which this sub-paragraph applies) conducted by or on behalf of the government of the Commonwealth; or
 - (b) an institution, proposed institution, body, authority or instrumentality that, by virtue of a declaration under section 5, is a technical and further education institution for the purposes of this Act;

“tertiary institution” means a university, a college of advanced education, a technical and further education institution or a prescribed Commonwealth institution;

“university” means, subject to the regulations, an institution specified in Schedule 1.

(2) For the purposes of this Act, a residential college or a proposed residential college connected with a tertiary institution shall be deemed to be part of that institution.

5. The Minister may declare that—

- (a) a proposed institution in Australia (other than a college of advanced education or a school) specified in the declaration, 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) specified in the declaration, being a body, authority or instrumentality that provides in Australia technical and further education; or
- (c) an institution in Australia (other than a college of advanced education or an institution conducted for the profit, direct or indirect, of an individual or individuals) specified in the declaration, being an institution that provides technical and further education,

Declarations
in relation to
technical and
further
education
institutions.

is, for the purposes of this Act, a technical and further education institution.

PART II—TERTIARY EDUCATION COMMISSION

Division 1—Establishment and Functions of Commission

6. There is established by this Act a Commission by the name of the Tertiary Education Commission.

Tertiary
Education
Commission.

7. (1) The functions of the Commission are—

Functions of
Commission.

- (a) to inquire into, and to furnish information and advice to the Minister with respect to—
 - (i) matters in connexion with the grant by the Commonwealth of financial assistance to a State for and in respect of universities, colleges of advanced education and technical and further education institutions in the State;
 - (ii) matters in connexion with the provision by the Commonwealth of financial assistance for and in respect of universities, colleges of advanced education and technical and further education institutions in the Territories and prescribed Commonwealth institutions; and

- (iii) any other matter relating to tertiary institutions 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; and
 - (b) where required or authorized by an Act or where required by the Minister, to perform on behalf of the Commonwealth administrative functions in relation to programs of financial assistance of a kind referred to in sub-paragraph (a) (i).
- (2) For the purposes of sub-section (1), matters in connexion with the grant or provision of financial assistance include—
- (a) matters relevant to the necessity for the financial assistance to be so granted or provided;
 - (b) the conditions (if any) upon which the financial assistance should be so granted or provided; and
 - (c) the amounts and allocation of the financial assistance so granted or provided.
- (3) The Commission also has the following functions:—
- (a) to make recommendations to the Minister as to the institutions and proposed institutions that should be, for the purposes of this Act, universities or colleges of advanced education or as to the exercise of his powers under section 5;
 - (b) where required by the Minister, to inquire into, and furnish information and advice to the Minister or to another Minister with respect to, matters relating to any institution, other than a prescribed Commonwealth institution, establish or proposed to be established by the Commonwealth for the provision of tertiary education; and
 - (c) such other functions as are conferred on the Commission, either expressly or by implication, by or under any other Act.
- (4) The functions conferred on the Commission do not extend to matters that relate to a course, or courses, at an institution that, in the opinion of the Commission, is not a course, or are not courses, of tertiary education.

Performance
of functions
of Com-
mission.

8. (1) In the performance of its functions, the Commission may consult with such persons, bodies and authorities as the Commission thinks necessary, and, in the performance of its functions under this Act in respect of a matter relating to a university or universities in a State, a college of advanced education or colleges of advanced education in a State or a technical and further education institution or technical and further education institutions in a State, the Commission shall consult with the authority or authorities of that State responsible for matters relating to universities, colleges of advanced education or technical and further education institutions, as the case may be, in the State.

(2) The Commission shall perform its functions with the object of promoting—

- (a) the balanced and co-ordinated development of the provision of tertiary education in Australia; and
- (b) the diversifying of opportunities for tertiary education.

9. (1) The Commission shall furnish to the Minister such reports relating to the performance of its functions as the Minister requires and may furnish such other reports as the Commission thinks fit. Reports by Commission.

(2) Without limiting sub-section (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 sub-paragraphs 7 (1) (a) (i) and (ii).

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

(4) Where, in the course of preparing a report referred to in sub-section (1) or (2), the Commission has received advice from a Council in accordance with section 37 relating to the matter on which the Commission is preparing the report, the report shall include a copy of that advice.

Division 2—Constitution and Meetings of Commission

10. (1) The Commission shall consist of—

- (a) a Chairman;
- (b) a Commissioner to be concerned particularly with universities;
- (c) a Commissioner to be concerned particularly with colleges of advanced education;
- (d) a Commissioner to be concerned particularly with technical and further education institutions; and
- (e) 5 other Commissioners.

Membership of Commission.

(2) The Commissioners shall be appointed by the Governor-General.

(3) The Commissioners referred to in paragraphs (1) (a), (b), (c) and (d) shall be appointed as full-time Commissioners and the other Commissioners shall be appointed as part-time Commissioners.

(4) The performance of the functions of the Commission is not affected by reason only of there being a vacancy or vacancies in the membership of the Commission.

(5) The Commissioners hold office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

Period of appointment of Commissioners.

11. (1) A full-time Commissioner shall be appointed for such period, not exceeding 7 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(2) A part-time Commissioner shall be appointed for such period, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(3) A person who has attained the age of 65 years shall not be appointed or re-appointed as a full-time Commissioner and a person shall not be appointed or re-appointed as a full-time Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

Remuneration and allowances of Commissioners.

12. (1) A Commissioner 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.

(2) A Commissioner shall be paid such allowances as are prescribed.

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

Leave of absence of full-time Commissioners.

13. The Minister may grant leave of absence to a full-time Commissioner on such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation of Commissioner.

14. A Commissioner may resign his office by writing signed by him and delivered to the Governor-General.

Termination of appointment of Commissioner.

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

(2) If a Commissioner—

(a) being a full-time Commissioner—

(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 Commissioner—is absent, except with the permission of the Minister, from 3 consecutive meetings of the Commission; or

- (c) whether a full-time Commissioner or a part-time Commissioner—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 Commissioner.

16. (1) The Minister may appoint a Commissioner or other person Acting Commissioners. to act as the Chairman during a period, or during all periods, when—

- (a) there is a vacancy in the office of Chairman, whether or not an appointment has previously been made to the office of Chairman; or
- (b) the Chairman is absent from duty or from Australia or, for any other reason, is unable to perform the functions of his office.

(2) The Minister may appoint a part-time Commissioner or other person to act as a full-time Commissioner in the place of a Commissioner referred to in paragraph 10 (1) (b), (c) or (d) during a period, or during all periods, when—

- (a) there is a vacancy in the office of that Commissioner, whether or not an appointment has previously been made to that office; or
- (b) that Commissioner is acting as Chairman, is absent from duty or from Australia or, for any other reason, is unable to perform the duties of his office.

(3) The Minister may appoint a person to act as a part-time Commissioner during a period, or during all periods, when—

- (a) there is a vacancy in the office of a part-time Commissioner, whether or not an appointment has previously been made to the office; or
- (b) a part-time Commissioner is acting as Chairman or as another full-time Commissioner, is absent from duty or from Australia or, for any other reason, is unable to perform the duties of his office.

(4) A person acting in accordance with paragraph (1) (a), (2) (a) or (3) (a) shall not continue so to act for more than 12 months.

(5) Where a person is acting as Chairman in accordance with paragraph (1) (b), as a full-time Commissioner in accordance with paragraph (2) (b) or as a part-time Commissioner in accordance with paragraph (3) (b) and the office of Chairman, of the full-time Commissioner in whose place he is acting or of the part-time Commissioner in whose place he is acting, as the case may be, becomes vacant while that person is so acting, the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

- (6) 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.

(7) A person appointed under this section may resign his appointment by writing signed by him and delivered to the Minister.

(8) While a person is acting as Chairman in pursuance of an appointment under this section, he has and may exercise all the powers of, and shall perform all the functions of, the Chairman.

(9) The validity of anything done by a person acting under this section shall not be called in question by reason of any defect or irregularity in or in connexion with his appointment or on the ground that the occasion for his acting had not arisen or had ceased.

Rights of
Public
Servants
appointed as
full-time
Com-
missioners.

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

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as a full-time Commissioner shall be taken into account as if it were service in the Public Service; and
- (c) the *Officers' Rights Declaration Act 1928* applies as if this Act and this section had been specified in the Schedule to that Act.

Meetings of
Commission.

18. (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) At a meeting, 5 Commissioners, of whom at least 2 shall be part-time Commissioners, constitute a quorum.

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

(5) If the Chairman is not present at a meeting, the members present shall elect one of their number to preside at the meeting.

(6) Questions arising at a meeting shall be determined by a majority of votes of the Commissioners present and voting.

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

(8) In this section—

- (a) a reference to the Chairman shall, if a person is acting as the Chairman, be read as a reference to that person; and

- (b) a reference to a Commissioner shall, if a person is acting as the Chairman or as another Commissioner, be read as including a reference to that person.

PART III—COUNCILS

Division 1—Universities Council

19. There is established by this Act a Council by the name of the Universities Council. Universities Council.

20. The functions of the Universities Council are— Functions of Universities Council.

- (a) in accordance with section 37, to inquire into, and furnish information and advice to the Minister and the Commission with respect to, matters relating to universities;
- (b) to provide, in accordance with the directions of the Commission, assistance to the Commission in the performance of the Commission's functions in matters relating to universities, and, in particular, without limiting the generality of the foregoing—
- (i) to carry out, in relation to universities, the function of the Commission referred to in paragraph 7 (1) (b); and
- (ii) to represent or act on behalf of the Commission in matters relating to universities; and
- (c) if so required by the Commission, to provide, in accordance with the directions of the Commission (either alone or in cooperation with another Council or both other Councils), assistance to the Commission in the performance of the functions of the Commission in matters relating to tertiary institutions other than universities.

21. (1) The Universities Council shall consist of— Membership of Universities Council.

- (a) the Commissioner referred to in paragraph 10 (1) (b), who shall be the Chairman of the Council; and
- (b) 8 other members, not being Commissioners or members of the Advanced Education Council or the Technical and Further Education Council.

(2) The members referred to in paragraph (1) (b) shall be appointed by the Governor-General.

(3) In paragraph (1) (a), the reference to the Commissioner referred to in paragraph 10 (1) (b) shall, if a person is acting in the place of that Commissioner, be read as a reference to that person.

Division 2—Advanced Education Council

22. There is established by this Act a Council by the name of the Advanced Education Council. Advanced Education Council.

Functions of
Advanced
Education
Council.

- 23.** The functions of the Advanced Education Council are—
- (a) in accordance with section 37, to inquire into, and furnish information and advice to the Minister and the Commission with respect to, matters relating to colleges of advanced education;
 - (b) to provide, in accordance with the directions of the Commission, assistance to the Commission in the performance of the Commission's functions in matters relating to colleges of advanced education, and, in particular, without limiting the generality of the foregoing—
 - (i) to carry out, in relation to colleges of advanced education, the function of the Commission referred to in paragraph 7 (1) (b); and
 - (ii) to represent or act on behalf of the Commission in matters relating to colleges of advanced education; and
 - (c) if so required by the Commission, to provide, in accordance with the directions of the Commission (either alone or in cooperation with another Council or both other Councils), assistance to the Commission in the performance of the functions of the Commission in matters relating to tertiary institutions other than colleges of advanced education.

Membership
of Advanced
Education
Council.

- 24.** (1) The Advanced Education Council shall consist of—
- (a) the Commissioner referred to in paragraph 10 (1) (c), who shall be the Chairman of the Council; and
 - (b) 8 other members, not being Commissioners or members of the Universities Council or the Technical and Further Education Council.

(2) The members referred to in paragraph (1) (b) shall be appointed by the Governor-General.

(3) In paragraph (1) (a), the reference to the Commissioner referred to in paragraph 10 (1) (c) shall, if a person is acting in the place of that Commissioner, be read as a reference to that person.

Division 3—Technical and Further Education Council

Technical
and Further
Education
Council.

25. There is established by this Act a Council by the name of the Technical and Further Education Council.

Functions of
Technical
and Further
Education
Council.

- 26.** The functions of the Technical and Further Education Council are—
- (a) in accordance with section 37, to inquire into, and furnish information and advice to the Minister and the Commission with respect to, matters relating to technical and further education institutions;

- (b) to provide, in accordance with the directions of the Commission, assistance to the Commission in the performance of the Commission's functions in matters relating to technical and further education institutions, and, in particular, without limiting the generality of the foregoing—
- (i) to carry out, in relation to technical and further education institutions, the function of the Commission referred to in paragraph 7 (1) (b); and
 - (ii) to represent or act on behalf of the Commission in matters relating to technical and further education institutions; and
- (c) if so required by the Commission, to provide, in accordance with the directions of the Commission (either alone or in co-operation with another Council or both other Councils), assistance to the Commission in the performance of the functions of the Commission in matters relating to tertiary institutions other than technical and further education institutions.

27. (1) The Technical and Further Education Council shall consist of—

- (a) the Commissioner referred to in paragraph 10 (1) (d), who shall be the Chairman of the Council; and
- (b) 8 other members, not being Commissioners or members of the Universities Council or the Advanced Education Council.

Membership of Technical and Further Education Council.

(2) The members referred to in paragraph (1) (b) shall be appointed by the Governor-General.

(3) In paragraph (1) (a), the reference to the Commissioner referred to in paragraph 10 (1) (d) shall, if a person is acting in the place of that Commissioner, be read as a reference to that person.

Division 4—Members, Meetings and Activities of Council

28. A member of a Council shall be appointed for such period, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

Period of appointment to Council.

29. (1) A member of a Council 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 and allowances of members of Councils.

(2) A member of a Council shall be paid such allowances as are prescribed.

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

- Resignation of member of Council.** **30.** A member of a Council may resign his office by writing signed by him and delivered to the Governor-General.
- Termination of appointment of member of Council.** **31.** (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) is absent, except with the permission of the Minister, from 3 consecutive meetings of the Council of which he is a member; or
- (b) 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.
- Vacancies not to affect Councils.** **32.** The performance of the functions of a Council is not affected by reason only of there being a vacancy or vacancies in the membership of the Council.
- Commissioners on Councils.** **33.** If the Chairman of a Council is acting as Chairman of the Commission but no person has been appointed to act as a Commissioner in his place, his so acting shall not affect his being the Chairman of that Council.
- Members acting as Commissioners.** **34.** If a member or acting member of a Council is acting as a Commissioner, he shall not perform the duties of his office of a member or acting member of the Council while he is so acting as a Commissioner.
- Acting members of Councils.** **35.** (1) The Minister may appoint a person, other than a Commissioner or a member of a Council, to act as a member of a Council during a period, or during all periods, when—
- (a) there is a vacancy in the office of a member of the Council; or
- (b) a member of the Council is absent from duty or from Australia or, for any other reason (including the provisions of section 34), is unable to perform the functions of his office,
- but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) 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.
- (3) A person acting as a member of a Council may resign his appointment by writing signed by him and delivered to the Minister.

(4) The validity of anything done by a person acting under this section shall not be called in question by reason of any defect or irregularity in or in connexion with his appointment or on the ground that the occasion for his acting had not arisen or had ceased.

36. (1) A council shall hold such meetings as are necessary for the performance of its functions. Meetings of Councils.

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

(3) At a meeting of a Council, 5 members constitute a quorum.

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

(5) If the Chairman of a Council is not present at a meeting of the Council, the members present shall elect one of their number to preside at the meeting.

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

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

(8) The Chairman of the Commission may attend a meeting of a Council and participate in discussions at that meeting.

(9) In this section—

(a) a reference to the Chairman of the Commission shall, if a person is acting as the Chairman of the Commission, be read as a reference to that person; and

(b) a reference to a member of a Council shall be read as including a reference to the Chairman of the Council and to an acting member.

37. (1) A Council shall inquire into, and furnish information and advice to the Minister with respect to, such matters falling within the functions of the Council as the Minister or the Commission requires. Advice by Councils.

(2) A Council shall inquire into, and furnish information and advice to the Commission with respect to, such matters falling within the functions of the Council as the Commission requires.

(3) A Council may inquire into, and furnish information and advice to the Minister or to the Commission with respect to, such matters falling within the functions of the Council as the Council thinks fit.

(4) Where a Council furnishes information or advice to the Minister under sub-section (1) or (3), it shall give the Commission a copy of that information or advice.

(5) A reference in this section to matters falling within the functions of a Council shall be read as a reference to—

- (a) in the case of the Universities Council—matters relating to universities;
- (b) in the case of the Advanced Education Council—matters relating to colleges of advanced education; and
- (c) in the case of the Technical and Further Education Council—matters relating to technical and further education institutions.

PART IV—MISCELLANEOUS

Staff of
Commission.

38. (1) The staff necessary to assist the Commission and the Councils shall be persons employed under the *Public Service Act 1922*.

(2) The Chairman has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act 1922*, 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 purpose of sub-section 25 (5) and (6) of the *Public Service Act 1922*, the Chairman shall be deemed to be a Permanent Head.

(4) In this section, a reference to the Chairman shall, if a person is acting as the Chairman, be read as including a reference to that person.

Committees.

39. (1) The Minister may, at the request of the Commission, appoint a committee to assist the Commission or a Council in relation to a matter specified in the request.

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

(3) Subject to the *Remuneration Tribunals Act 1973*, 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 appointed under sub-section (1) to assist the Commission or a Council shall make such inquiries and furnish such reports, in connexion with the matter in relation to which it has been appointed, as the Commission or the Council, as the case may be, directs.

Super-
annuation.

40. Superannuation benefits, other than benefits under the *Superannuation Act 1976*, may be provided, in respect of a person who is a full-time Commissioner, in accordance with an agreement between the Commonwealth and that person made before the commencement of this Act or such an agreement as amended from time to time.

41. Unless the contrary intention appears or the context otherwise requires, a reference to the Universities Commission or to the Commission on Advanced Education in any law of the Commonwealth in force at the time this Act comes into operation shall, after the commencement of this Act, be read as including a reference to the Tertiary Education Commission. Transitional—
references.

42. (1) Where any Act in force at the time this Act comes into operation authorizes the Minister administering that Act to delegate a power under that Act to the Universities Commission, to the Commission on Advanced Education or to a member of either of those Commissions, that Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate that power to the Tertiary Education Commission, to a Council or to a full-time Commissioner. Transitional—
delegations.

(2) Where any Act in force at the time this Act comes into operation authorizes the Universities Commission or the Commission on Advanced Education to delegate a power under that Act that, by virtue of section 41 of this Act, may be exercised by the Tertiary Education Commission, the Tertiary Education Commission may, by resolution, either generally or as otherwise provided by the resolution, delegate that power to a Council or to a full-time Commissioner.

(3) A power of a Minister or of the Commission under an Act delegated under this section, when exercised by the delegate, shall, for the purposes of that Act, be deemed to have been exercised by the Minister or the Commission, as the case may be.

(4) A delegation by a Minister or the Commission under this section does not prevent the exercise of a power by the Minister or the Commission, as the case may be.

(5) Section 34A of the *Acts Interpretation Act* 1901 applies in relation to a delegation under sub-section (2) as if the Commission were a person.

(6) A certificate signed by the Chairman, or, if a person is acting as the Chairman, that person so acting, stating any matter with respect to a delegation of a power under this section is *prima facie* evidence of that matter.

(7) A document purporting to be a certificate mentioned in sub-section (6) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

43. A declaration for the purposes of paragraph (b) of the definition of “technical and further education” in sub-section 4 (1) or a delegation of a power under sub-section 42 (2)— Resolutions.

- (a) may be revoked by resolution of the Commission (whether or not constituted by the persons constituting the Commission at the time the declaration was made or the power was delegated, as the case may be); and
- (b) continues in force notwithstanding a change in the membership of the Commission.

Regulations. **44.** (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(2) The regulations may declare that a specified institution or proposed institution shall be a university or college of advanced education for the purposes of this Act.

(3) The regulations may declare that a specified institution or proposed institution specified in a Schedule or in regulations made under sub-section (2) shall cease to be a university or college of advanced education for the purposes of this Act.

(4) A regulation of a kind referred to in sub-section (2) or (3) shall not be made in respect of an institution or proposed institution except after consideration by the Minister of a report by the Commission on the appropriate status of the institution or proposed institution for the purposes of this Act.

(5) Before making a report for the purposes of sub-section (4) with respect to an institution or a proposed institution in a State, the Commission shall consult with the appropriate authorities in that State with respect to the matter to be reported on, and the report shall include particulars of any views so obtained.

PART V—AMENDMENTS OF THE STATES GRANTS (TECHNICAL AND FURTHER EDUCATION ASSISTANCE) ACT 1976

Principal Act.

45. The *States Grants (Technical and Further Education Assistance) Act 1976*² is in this Part referred to as the Principal Act.

Interpretation.

46. Section 3 of the Principal Act is amended—

- (a) by omitting from paragraph (b) of the definition of “institution providing technical and further education” in sub-section (1) the words “section 4 of the *Technical and Further Education Commission Act 1975*” and substituting the words “section 5 of the *Tertiary Education Commission Act 1977*”;

- (b) by omitting from the definition of “university” in sub-section (1) the words “*Universities Commission Act 1959*” and substituting the words “*Tertiary Education Commission Act 1977*”; and
- (c) by omitting from sub-section (2) the words “section 4 of the *Technical and Further Education Commission Act 1975*” and substituting the words “section 5 of the *Tertiary Education Commission Act 1977*”.

47. Section 21 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:—

“(1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to—

- (a) the Tertiary Education Commission established by the *Tertiary Education Commission Act 1977*;
- (b) a Council established by that Act; or
- (c) a Commissioner referred to in sub-section 10 (1) of that Act appointed as a full-time Commissioner,

any of his powers under sub-section 5(4) or (5), 6 (5) or (6), 9 (1) or (2), 10 (1) or (2) or 12 (1) or (2) of this Act.”.

SCHEDULE 1

Sub-section 4(1)
(definition of “university”)

UNIVERSITIES NEW SOUTH WALES

University of Sydney
The University of New South Wales
University of New England
The University of Newcastle
The Macquarie University
The University of Wollongong

VICTORIA

University of Melbourne
Monash University
La Trobe University
Deakin University

QUEENSLAND

The University of Queensland
James Cook University of North Queensland
Griffith University

SOUTH AUSTRALIA

The University of Adelaide
The Flinders University of South Australia

WESTERN AUSTRALIA

The University of Western Australia
Murdoch University

SCHEDULE 1—continued

TASMANIA

University of Tasmania

TERRITORIES

The Australian National University

SCHEDULE 2

Sub-section 4(1)
(definition of “college of
advanced education”)

COLLEGES OF ADVANCED EDUCATION

NEW SOUTH WALES

Alexander Mackie College of Advanced Education
 Armidale College of Advanced Education
 Catholic College of Education
 Catholic Teachers College, North Sydney
 Cumberland College of Health Sciences
 Good Samaritan Teachers College
 Goulburn College of Advanced Education
 Hawkesbury Agricultural College
 Kuring-gai College of Advanced Education
 Mitchell College of Advanced Education
 Nepean College of Advanced Education
 Newcastle College of Advanced Education
 New South Wales Conservatorium of Music
 Northern Rivers College of Advanced Education
 Nursery School Teachers College
 Orange Agricultural College
 Riverina College of Advanced Education
 Sydney College of the Arts
 Sydney Kindergarten Teachers College
 Sydney Teachers College
 The Guild Teachers College
 The Milperra College of Advanced Education
 The New South Wales Institute of Technology
 Wollongong Institute of Education

VICTORIA

Ballarat College of Advanced Education
 Bendigo College of Advanced Education
 Caulfield Institute of Technology
 College of Nursing, Australia
 Footscray Institute of Technology
 Gippsland Institute of Advanced Education
 Lincoln Institute
 Prahran College of Advanced Education
 Preston Institute of Technology
 Royal Melbourne Institute of Technology
 State College of Victoria, Burwood
 State College of Victoria, Coburg
 State College of Victoria, Frankston
 State College of Victoria, Hawthorn
 State College of Victoria—Institute of Catholic Education

SCHEDULE 2—continued

State College of Victoria—Institute of Early Childhood Development
State College of Victoria, Melbourne
State College of Victoria, Rusden
State College of Victoria, Toorak
Swinburne College of Technology
The Victorian College of the Arts
Victorian College of Pharmacy
Warrnambool Institute of Advanced Education

QUEENSLAND

Brisbane Kindergarten Teachers College
Capricornia Institute of Advanced Education
Darling Downs Institute of Advanced Education
Kelvin Grove College of Advanced Education
Mount Gravatt College of Advanced Education
North Brisbane College of Advanced Education
Queensland Agricultural College
Queensland Conservatorium of Music
Queensland Institute of Technology
Townsville College of Advanced Education

SOUTH AUSTRALIA

Adelaide College of Advanced Education
Kingston College of Advanced Education
Murray Park College of Advanced Education
Roseworthy Agricultural College
Salisbury College of Advanced Education
South Australian Institute of Technology
Sturt College of Advanced Education
Torrens College of Advanced Education

WESTERN AUSTRALIA

Churchlands Teachers College
Claremont Teachers College
Graylands Teachers College
Mount Lawley Teachers College
Western Australian Institute of Technology
Western Australian Secondary Teachers College

TASMANIA

Tasmanian College of Advanced Education

TERRITORIES

Canberra College of Advanced Education

NOTES

1. Act No. 25, 1977; assented to 5 May 1977.
2. Act No. 131, 1976.