



Maritime College Act 1978

Act No. 54 of 1978 as amended

[Note: This Act was repealed by Act No. 150 of 2007 on 1 January 2008 (see F2007L04141)]

For transitional provisions see Act No. 150, 2007, Schedule 1 (items 1, 3–19)]

This compilation was prepared on 27 May 2005
taking into account amendments up to Act No. 56 of 2005

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act relating to the Australian Maritime College

1 Short title [see Note 1]

This Act may be cited as the *Maritime College Act 1978*.

2 Commencement [see Note 1]

This Act shall come into operation on a date to be fixed by Proclamation.

3 Repeal

The *Maritime College Act 1976* is repealed.

4 Interpretation

In this Act unless the contrary intention appears:

Chairperson means the Chairperson of the Council.

College means the Australian Maritime College referred to in section 5.

Council means the Council of the College.

Deputy Chairperson means the Deputy Chairperson of the Council.

ex officio member means a person who is a member by virtue of being the Principal or the Chairperson of the Academic Board of the College.

Finance Minister means the Minister who administers the *Financial Management and Accountability Act 1997*.

member means a member of the Council.

non-teaching staff, in relation to the College, means the members of the staff of the College other than the teaching staff.

Principal means Principal of the College.

staff, in relation to the College, means persons employed by the College in pursuance of the power conferred by paragraph 8(2)(d).

Statutes means the Statutes of the College made by the Council under this Act.

teaching staff, in relation to the College, means the members of the staff of the College who are declared by the Statutes to be members of the teaching staff of the College.

4A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

5 The College

- (1) Notwithstanding the repeal effected by section 3, the college established by the *Maritime College Act 1976* under the name “Australian Maritime College” is continued in existence by this Act under that name.
 - (2) The College:
 - (a) is a body corporate, with perpetual succession;
 - (b) shall have a seal;
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.
- Note: The *Commonwealth Authorities and Companies Act 1997* applies to the College. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.
- (3) The seal of the College shall be kept in such custody as the Council directs and shall not be used except as authorized by the Council.
 - (4) All courts, judges and persons acting judicially shall take judicial notice of the seal of the College affixed to a document and shall presume that it was duly affixed.

6 Seat of College

The seat of the College shall be at, or in the vicinity of, Launceston in the State of Tasmania.

7 Functions of College

The functions of the College are:

- (a) to conduct an institution for the provision of such maritime and maritime-related education and training (including logistics education and training) as the Council, with the Minister's approval, determines, or as the Minister requires; and
- (b) to use the facilities and resources of the College to advance and develop knowledge and skills in the fields with which the College is concerned; and
- (c) to award such degrees, diplomas and certificates in relation to the passing of examinations or otherwise in relation to the education and training provided by the College as are provided for by the Statutes; and
- (e) to do anything incidental or conducive to the performance of any of the preceding functions.

8 Powers of College

- (1) The College has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions.
- (2) Without limiting the generality of subsection (1), the College has power:
 - (a) to enter into contracts;
 - (b) to erect buildings;
 - (c) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the College;
 - (d) to employ such staff as are necessary for the efficient performance of its functions;
 - (e) to accept gifts, devises and bequests made to the College, whether on trust or otherwise, and act as trustee of moneys or other property vested in the College upon trust;

- (f) to develop commercially any discovery, invention or property;
 - (g) to make charges for work done, services rendered, and goods and information supplied;
 - (h) to lend money to, and to provide guarantees for the benefit of, bodies carrying on activities associated with the College;
 - (j) with the written approval of the Minister:
 - (i) to form, and participate in the formation of, companies;
 - (ii) to subscribe for and purchase shares in, and debentures and other securities of, companies;
 - (iii) to enter into partnerships; and
 - (iv) to participate in joint ventures and arrangements for the sharing of profits;
 - (k) to appoint agents and attorneys;
 - (m) to do such other things as it is authorised to do by or under this Act or any other Act; and
 - (n) to do anything incidental to any of its powers.
- (3) Notwithstanding anything contained in this Act, any moneys or other property held by the College upon trust shall be dealt with in accordance with the powers and duties of the College as trustee.
- (4) The College may exercise its powers both within and outside Australia.
- (5) An approval under paragraph (2)(h):
- (a) may be of general or particular application; and
 - (b) may be given subject to specified conditions and restrictions.

9 Courses of maritime training etc.

The College may, in pursuance of arrangements between the College and a Minister, conduct on behalf of the Commonwealth:

- (a) short courses of maritime training; and
- (b) examinations and assessments for marine competency in accordance with the *Navigation Act 1912*.

10 The Council

- (1) The College shall be governed by a council by the name of the Council of the Australian Maritime College.
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- (2) All acts and things done in the name of, or on behalf of, the College with the authority of the Council shall be deemed to have been done by the College.

11 Constitution of the Council

- (1) The Council is to consist of the following members:
 - (a) the Principal;
 - (b) the Chairperson of the Academic Board of the College;
 - (c) up to 6 other members.
- (2) The Minister may appoint in writing the members referred to in paragraph (1)(c).
- (3) In making an appointment under subsection (2), the Minister must have regard to the advice of the Council.
- (4) In appointing members to the Council under paragraph (1)(c), the Minister must try to ensure that there is a balance of skills and expertise among members of the Council, in particular financial and commercial skills.
- (5) The Minister must not appoint to the Council:
 - (a) a current member of:
 - (i) the Commonwealth Parliament; or
 - (ii) a State Parliament; or
 - (iii) the legislature of a Territory; or
 - (b) a member of the academic or general staff of the College; or
 - (c) a student of the College.
- (6) If a person other than the Principal is for the time being performing the duties of the office of Principal, that person may attend meetings of the Council and, for the purposes of those meetings, is taken to be a member.

13 Term of office

- (1) The term of office of a member shall, subject to this Act, be as provided by this section.
- (2) The Principal holds office as a member while he or she holds office as Principal.

- (3) A member referred to in paragraph 11(1)(c) holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment.
- (4) The Chairperson of the Academic Board of the College holds office as a member while he or she holds office as the Chairperson of the Academic Board, unless the person is removed from the Council under section 17.

14 Members eligible for re-appointment or re-election

A member (other than an *ex officio* member) is eligible for re-appointment or re-election as a member on the expiration of his or her term of office.

15 Chairperson and Deputy Chairperson

- (1) Subject to subsection (2), the Council shall:
 - (a) appoint a member to be Chairperson; and
 - (b) appoint a member to be Deputy Chairperson.
- (2) The Principal shall not be appointed as Chairperson or Deputy Chairperson.
- (4) A member appointed as Chairperson or Deputy Chairperson:
 - (a) subject to subsection (5), holds office as Chairperson or Deputy Chairperson, as the case may be, for such period as is specified in his or her instrument of appointment, which shall be a period that expires on or before the expiration of his or her term of office as a member that is current at the time of the appointment, but, if he or she remains a member or is re-appointed or re-elected as a member, is eligible for re-appointment as Chairperson or Deputy Chairperson;
 - (b) may resign his or her office as Chairperson or Deputy Chairperson by writing signed by him or her and delivered to the Council; and
 - (c) ceases to be Chairperson or Deputy Chairperson if he or she ceases to be a member.
- (4A) If a member appointed as Chairperson or Deputy Chairperson resigns his or her office as Chairperson or Deputy Chairperson under paragraph 15(4)(b), the Council must notify the Minister in writing of the resignation as soon as practicable after receiving it.

- (5) The term of office as Chairperson or Deputy Chairperson of the person first appointed to that office shall not exceed 2 years.

17 Removal from office

- (1) The Minister may remove a person from the Council on the ground of misbehaviour, physical or mental incapacity or a breach of his or her duties under the *Commonwealth Authorities and Companies Act 1997*.
- (2) The Minister must remove a member from the Council if:
 - (a) the member becomes disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*;
or
 - (c) the member is, in the Minister's opinion, incapable of performing his or her duties.
- (3) In forming an opinion for the purposes of paragraph (2)(c), the Minister must have regard to the advice of the Council.
- (4) The Council must remove a member from the Council if the member has, in the Council's opinion formed by resolution as mentioned in subsection (5), breached his or her duties under section 22A, 22B, 22C, 22D, 22E or 22F as a member of the Council.
- (5) For the purposes of subsection (4), the Council forms its opinion by resolution if the resolution is passed at a meeting of the Council by at least a two-thirds majority of the members of the Council.
- (6) If a member is removed from the Council under subsection (4), the Council must notify the Minister in writing of the removal as soon as practicable after the member has been removed.

19 Member to cease to hold office in certain circumstances

- (1) A member (other than the Principal or the Chairperson of the Academic Board of the College) may resign his or her office by writing signed by him or her and delivered to the Minister.

21 First meeting of Council

The Minister shall convene the first meeting of the Council and shall appoint one of the members to preside at that meeting for the purpose of the appointment by the Council of the Chairperson and the Deputy Chairperson.

22 Meetings of Council

- (1) The Chairperson or, if the Chairperson is not available, the Deputy Chairperson:
 - (a) may convene a meeting of the Council;
 - (b) shall, on receipt of a written request signed by not less than 4 members, convene a meeting of the Council; and
 - (c) shall comply with any resolution of the Council with respect to the convening of meetings of the Council.
- (2) If neither the Chairperson nor the Deputy Chairperson is available, the Minister may convene a meeting of the Council.
- (3) The Chairperson shall preside at all meetings of the Council at which he or she is present.
- (4) Where the Chairperson is not present at a meeting of the Council:
 - (a) the Deputy Chairperson shall preside at that meeting; or
 - (b) if the Deputy Chairperson is not present, the members present shall choose one of their number to preside at that meeting.
- (5) At a meeting of the Council, a majority of the members for the time being constitute a quorum.
- (6) Subject to subsection (7), questions arising at a meeting of the Council shall be determined by a majority of the votes of the members present and voting, and, for this purpose, the member presiding at the meeting has a deliberative vote only.
- (7) In the event of an equality of votes on a motion proposed at a meeting of the Council, the motion shall not be passed, but, if the same motion is proposed at the next meeting of the Council held on a subsequent day and there is again an equality of votes, the member presiding at that meeting has a casting vote on that motion.

- (8) The Council may regulate the conduct of proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.
- (9) Where the office of Chairperson or Deputy Chairperson is vacant, this section has effect as if there were a holder of that office but he or she were unavailable.

22A Member to act solely in interest of College

A member must act solely in the interests of the College taken as a whole, having regard to its functions.

22B Member to exercise care and diligence

- (1) A member must exercise his or her powers and discharge his or her duties with the degree of care and diligence that a reasonable person would exercise if he or she:
 - (a) were a member of the Council in the Council's circumstances; and
 - (b) occupied the office held by, and had the same responsibilities within the Council as, the member.
- (2) A member who makes a business judgment is taken to meet the requirements of subsection (1), and their equivalent duties at common law and in equity, in respect of the judgment if he or she:
 - (a) makes the judgment in good faith for a proper purpose; and
 - (b) does not have a material personal interest in the subject matter of the judgment; and
 - (c) informs himself or herself about the subject matter of the judgment to the extent he or she reasonably believes to be appropriate; and
 - (d) rationally believes that the judgment is in the best interests of the College.

The member's belief that the judgment is in the best interests of the College is a rational one unless the belief is one that no reasonable person in his or her position would hold.

Note: This subsection only operates in relation to duties under this section and their equivalents at common law or in equity (including the duty of care that arises under the common law principles governing liability for negligence)—it does not operate in relation to duties under any other provision of this Act or under any other laws.

22C Member to act in good faith

A member must exercise his or her powers and discharge his or her duties:

- (a) in good faith in the best interests of the College; and
- (b) for a proper purpose.

22D Member not to use position improperly

A member must not improperly use his or her position to:

- (a) gain an advantage for him or her or someone else; or
- (b) cause detriment to the College or to another person.

22E Member not to use information improperly

A member who obtains information because of his or her position must not improperly use the information to:

- (a) gain an advantage for himself or herself or someone else; or
- (b) cause detriment to the College or to another person.

22F Material personal interest

- (1) A member who has a material personal interest in a matter that relates to the affairs of the College must give the other members notice of the interest.
- (2) Subsection (1) does not apply if the member is not, because of subsection 27F(2) of the *Commonwealth Authorities and Companies Act 1997*, required to give such a notice under subsection 27F(1) of that Act.
- (3) A member who has an interest in a matter may give the other members standing notice of the nature and extent of the interest in the matter in accordance with section 27G of the *Commonwealth Authorities and Companies Act 1997*.
- (4) A member who has a material personal interest in a matter that is being considered at a meeting of the Council must not:
 - (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter;

except as allowed under section 27J of the *Commonwealth Authorities and Companies Act 1997*.

22G Application of *Commonwealth Authorities and Companies Act 1997*

Nothing in sections 22A to 22F affects the application of the *Commonwealth Authorities and Companies Act 1997* to members.

23 Validity of proceedings

No act or proceeding of the Council is invalidated by reason of:

- (a) a defect in the appointment or election of a member;
- (b) the disqualification of a member; or
- (c) a defect in the convening of a meeting of the Council.

24 Statutes

- (1) The Council may make Statutes, not inconsistent with this Act, with respect to any of the following matters:
 - (a) the management, good government and discipline of the College and of the institution conducted by the College;
 - (b) the imposition, by or on behalf of the College, of penalties upon students of the College or persons employed by the College for contravention of, or failure to comply with, a Statute with respect to a matter referred to in paragraph (a);
 - (c) the persons who are to be regarded as members of the teaching staff of the College for the purposes of this Act;
 - (f) admission of persons to courses of study or instruction of the College or to examinations of the College;
 - (g) the courses of study and instruction of the College;
 - (h) the degrees, diplomas and certificates that may be awarded by the College and the requirements for their award;
 - (j) the granting by the College of scholarships, bursaries and prizes; and
 - (ja) the payment to the College of fees, including student contribution amounts and tuition fees within the meaning of the *Higher Education Support Act 2003*; and
 - (k) any other matter necessary or convenient for giving effect to this Act.

- (2) A Statute may provide for empowering any authority (including the Council) or officer of the College to make rules, not inconsistent with this Act or a Statute, in relation to a matter in relation to which a Statute may be made under subsection (1), or for carrying out or giving effect to the Statutes made under that subsection.

24A Statutes relating to traffic

- (1) The Council may make Statutes for or in relation to the regulation or control of:
 - (a) traffic; or
 - (b) the parking, stopping, standing or leaving of vehicles; on land occupied by the College in the State of Tasmania.
- (2) Without limiting subsection (1), a Statute made under that subsection may:
 - (a) authorise, and provide for the effect of, signs and markings; and
 - (b) provide for the punishment, upon summary conviction, by a fine not exceeding 2 penalty units, of offences against a Statute made under that subsection.

25 Statutes to be approved by the Governor-General and notified in the *Gazette*

- (1) The Council shall cause a Statute made under this Act to be sealed with the seal of the College and transmitted to the Governor-General for approval.
- (2) A Statute approved by the Governor-General shall be notified in the *Gazette*, and, upon notification, has the force of law.
- (3) The Statutes shall be numbered consecutively in the order in which they are notified in the *Gazette*, and a notice in the *Gazette* stating that a Statute has been made and specifying the number of the Statute and a place at which copies of the Statute may be purchased is sufficient compliance with the requirement that the Statute is to be notified in the *Gazette*.

- (4) A copy of every Statute notified in the *Gazette* shall be laid before each House of the Parliament within 15 sitting days of that House after it is so notified.
- (5) The production of a document purporting to be a copy of a Statute and to be sealed with the seal of the College or to have been printed by the Government Printer is, in all proceedings, evidence of the Statute.

26 The Principal

- (1) There shall be a Principal of the College, who shall be the executive officer of the College, and shall have such powers and perform such duties as the Statutes prescribe or, subject to the Statutes, as the Council determines.
- (2) The Council must appoint the Principal.
- (2A) The Council must not appoint the Principal under subsection (2) without the Minister's agreement.
- (3) A member shall not be appointed as the Principal.
- (4) The Principal shall hold office, unless he or she resigns from office under subsection (5) or is removed from the Council under section 17, for such period as is specified in his or her instrument of appointment, being a period that does not exceed:
 - (a) in the case of the first Principal—5 years; or
 - (b) in any other case—7 years;but is eligible for re-appointment.
- (5) The Principal may resign his or her office as Principal by writing signed by him or her and delivered to the Council.
- (5A) If the Principal resigns under subsection (5), the Council must notify the Minister in writing of the resignation as soon as practicable after receiving it.
- (6) Subject to this section, the Principal holds office on such terms and conditions as are determined by the Minister.

27 Acting Principal

- (1) The Council may appoint a person to act as Principal:
 - (a) during a vacancy in the office of Principal, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Principal is absent from duty or from Australia or is, for any reason, unable to perform the functions of his or her office;but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Council may:
 - (a) determine the terms and conditions of appointment of an acting Principal; and
 - (b) at any time terminate such an appointment.
- (3) Where a person is acting as Principal in accordance with paragraph (1)(b) and the office of Principal becomes vacant while that person is so acting, that person may continue so to act until the Council otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The appointment of an acting Principal ceases to have effect if he or she resigns the appointment by writing signed by him or her and delivered to the Council.
- (4A) If an acting Principal resigns under subsection (4), the Council must notify the Minister in writing of the resignation as soon as practicable after receiving it.
- (5) While a person is acting as Principal by virtue of an appointment under this section, he or she may exercise all the powers, and shall perform all the duties, of the Principal.
- (6) The validity of anything done by an acting Principal shall not be called in question on the ground that:
 - (a) the occasion for his or her appointment had not arisen;
 - (b) the appointment had ceased to have effect; or
 - (c) the occasion for his or her acting as Principal had not arisen.

28 Staff of College

Subject to section 29, the staff of the College shall be employed on such terms and conditions as the Council determines.

31 Contracts by College

- (1) A contract to be made by the College, being a contract that, if made by a natural person, would be required by law to be in writing under the seal of that person, may be made on behalf of the College in writing under the seal of the College.
- (2) A contract to which subsection (1) does not apply:
 - (a) is not invalid by reason only that it is not executed under the seal of the College;
 - (b) may be made on behalf of the College by a person acting with the authority of the College, express or implied; and
 - (c) if made in writing, may be executed on behalf of the College by that person.

32 Fees

Fees that are payable to the College, including student contribution amounts and tuition fees within the meaning of the *Higher Education Support Act 2003*, are payable in accordance with the Statutes.

32A Corporate plan

- (1) The members must prepare a corporate plan at least once a year and give it to the Minister.
- (2) If the Minister asks the members to give the plan to the Minister by a specified day, the members must give the plan to the Minister by that day.
- (3) The plan must cover a period of at least 3 years.
- (4) The members must keep the Minister informed about:
 - (a) significant changes to the plan; and
 - (b) matters that arise that might significantly affect the achievement of the objectives of the plan.

- (5) The plan must include details of the following matters:
 - (a) assumptions about the College's operational environment;
 - (b) the College's strategic directions;
 - (c) performance indicators for the College;
 - (d) a review of the College's performance against previous corporate plans;
 - (e) analysis of risk factors affecting the College's performance;
 - (f) human resource strategies and industrial relations strategies.
- (6) The plan must also cover any other matters the Minister requires, which may include further details about the matters in subsection (5).
- (7) In preparing the plan, the members must take account of any notices the Minister gives to the Council under subsection (8).
- (8) The Minister may give a written notice to the Council concerning the Minister's views about:
 - (a) the appropriate strategic directions of the College; and
 - (b) the manner in which the College should perform its non-academic functions.

32B Minister's response to corporate plan

- (1) The Minister must respond to a corporate plan within 60 days of being given the plan.
- (2) The Minister's response may include a direction to the members to vary the plan.
- (3) A direction under subsection (2) must be in writing and must set out the Minister's reasons for the direction.
- (4) If directing a variation of the corporate plan, the Minister must consider:
 - (a) the objectives and policies of the Commonwealth; and
 - (b) the objects of this Act; and
 - (c) any other matters the Minister thinks appropriate.
- (5) If the Minister's response includes a direction to vary the corporate plan, the members must prepare a revised plan and give it to the Minister within 28 days after being given the response.

32C Performance indicators

When including details of the performance indicators for the College in the corporate plan, the members must consider:

- (a) the College's financial viability and its financial viability in the future; and
- (b) the capacity of the College to:
 - (i) provide to students places in courses of study; and
 - (ii) to conduct research;
at a level appropriate to a reputable higher education provider; and
- (c) the College's capacity to comply with the *Higher Education Support Act 2003*; and
- (d) any other consideration that the members think appropriate affecting the performance of the College.

33 College's financial year starts on 1 January

For the purposes of the *Commonwealth Authorities and Companies Act 1997*, the College's financial year is a period of 12 months starting on 1 January.

34 Application of moneys

- (1) The moneys of the College may be applied by the College only:
 - (a) in payment or discharge of the liabilities and expenses of the College under this Act; and
 - (b) in payment of any remuneration or allowance payable to any person under this Act.
- (2) Subsection (1) does not prevent investment of surplus money of the College under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

36 Borrowing and raising of money

- (1) The College may, with the written approval of the Finance Minister:
 - (a) borrow money; or

- (b) raise money otherwise than by borrowing;
on terms and conditions that are specified in, or consistent with, the approval.
- (2) Without limiting the generality of subsection (1), the College may, under that subsection, borrow money, or raise money otherwise than by borrowing, by dealing with securities.
- (3) A borrowing of money, or a raising of money otherwise than by borrowing, under subsection (1) may be made, in whole or in part, in a currency other than Australian currency.
- (4) An approval may be given under subsection (1) in relation to a particular transaction or transactions in a class of transactions.
- (5) In this section, *securities* includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents.
- (6) A reference in this section to dealing with securities includes a reference to:
 - (a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing and reselling securities;
 - (b) creating, selling, purchasing and reselling rights or options relating to securities; and
 - (c) entering into agreements or other arrangements relating to securities.
- (7) For the purposes of this section:
 - (a) the issue by the College of an instrument acknowledging a debt in consideration of:
 - (i) the payment or deposit of money; or
 - (ii) the provision of credit;otherwise than in relation to a transaction that is in the ordinary course of the day to day operations of the College, shall be deemed to be a raising by the College, otherwise than by borrowing, of an amount equal to the amount paid or deposited or the value of the credit provided, as the case may be; and
 - (b) the obtaining of credit by the College otherwise than in relation to a transaction that is in the ordinary course of the

day to day operations of the College shall be deemed to be a raising by the College, otherwise than by borrowing, of an amount equal to the value of the credit so obtained.

37 Guarantee of borrowings by College

- (1) The Finance Minister may, on behalf of the Commonwealth, enter into a contract:
 - (a) guaranteeing the repayment by the College of specified money borrowed under paragraph 36(1)(a) and the payment by the College of interest (including any interest on that interest) on money so borrowed; or
 - (b) guaranteeing the payment by the College of specified amounts (which may be interest) that the College is liable to pay in relation to money raised under paragraph 36(1)(b).
- (2) The Finance Minister may, in writing, determine:
 - (a) that the repayment by the College of money borrowed under paragraph 36(1)(a), and the payment by the College of interest (including any interest on that interest) on money so borrowed, are guaranteed by the College; or
 - (b) that the payment by the College of specified money (which may be interest) that the College is liable to pay in relation to money raised under paragraph 36(1)(b) is guaranteed by the Commonwealth;and, where the Finance Minister makes such a determination, the repayment of that money and the payment of that interest are, or the payment of that money is, by force of this subsection, guaranteed by the Commonwealth.
- (3) A contract may be entered into under subsection (1), and a determination may be made under subsection (2), in relation to a particular transaction or class of transactions.
- (4) A contract entered into under subsection (1) may include either or both of the following provisions:
 - (a) a provision agreeing that proceedings under the contract may be taken in the courts, or a specified court, of a foreign country;
 - (b) a provision waiving the immunity of the Commonwealth from suit in the courts, or a specified court, of a foreign

country in relation to any proceedings that may be taken under the contract.

37A College may give security

The College may give security over the whole or any part of its land or other assets for:

- (a) the repayment of money borrowed under paragraph 36(1)(a) and the payment of interest (including any interest on that interest) on money so borrowed;
- (b) the payment of amounts (which may be interest) that it is liable to pay in relation to money raised under paragraph 36(1)(b); or
- (c) the payment to the Commonwealth of amounts equal to any amounts that the Commonwealth may become liable to pay under a contract entered into under subsection 37(1) or as a result of a determination made under subsection 37(2).

37B Borrowing not otherwise permitted

The College may borrow money, or raise money otherwise than by borrowing, only under section 36.

37C Delegation by Finance Minister

- (1) The Finance Minister may, by written instrument, delegate any of the Finance Minister's powers or functions under section 36 or 37 to an official (within the meaning of the *Financial Management and Accountability Act 1997*).
- (2) In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.

37D Contracts

The College may enter into a contract involving the payment or receipt by it of an amount exceeding \$2,000,000, or, if a higher amount is prescribed, that higher amount, only with the written approval of the Minister.

38 Taxation

The College is not subject to taxation under any law of the Commonwealth or of a State or Territory.

40 Regulations

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.

Table of Acts**Notes to the *Maritime College Act 1978*****Note 1**

The *Maritime College Act 1978* as shown in this compilation comprises Act No. 54, 1978 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Maritime College Act 1978</i>	54, 1978	20 June 1978	10 Oct 1978 (<i>see Gazette</i> 1978, No. S201)	
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part LXXVII (s. 280): Royal Assent (a)	S. 280(2) and (3)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1984</i>	72, 1984	25 June 1984	S. 3: 23 July 1984 (b)	S. 5(1)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (c)	—
<i>Maritime College Amendment Act 1986</i>	137, 1986	9 Dec 1986	6 Jan 1987	—
<i>Maritime College Amendment Act 1987</i>	126, 1987	16 Dec 1987	Ss. 1 and 2: Royal Assent Remainder: 16 Dec 1987 (<i>see</i> s. 2(2))	—
<i>Statute Law (Miscellaneous Provisions) Act 1988</i>	38, 1988	3 June 1988	S. 3: (d)	S. 5(1)
<i>Industrial Relations (Consequential Provisions) Act 1988</i>	87, 1988	8 Nov 1988	Ss. 1 and 2: Royal Assent Remainder: 1 Mar 1989 (<i>see</i> s. 2(2) and <i>Gazette</i> 1989, No. S53)	—
<i>Higher Education Funding Act 1988</i>	2, 1989	6 Jan 1989	Ss. 94, 95 and 124: Royal Assent (e)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Higher Education Funding Amendment Act (No. 2) 1992</i>	158, 1992	11 Dec 1992	Part 1 (ss. 1, 2): Royal Assent Part 4 (ss. 47–59): 1 Jan 1994 Remainder: 1 Jan 1993	—
as amended by				
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 3 (item 29): 11 Dec 1992 (<i>f</i>)	—
<i>Employment, Education and Training Legislation Amendment Act 1994</i>	79, 1994	23 June 1994	23 June 1994	S. 8(2) and (3)
<i>Higher Education Legislation Amendment Act 1996</i>	74, 1996	12 Dec 1996	Schedule 1 (items 34, 35): 1 Jan 1998 (<i>g</i>)	—
<i>Education Legislation Amendment Act 1997</i>	66, 1997	30 May 1997	Schedule 2: Royal Assent (<i>h</i>)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 903–910): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (<i>i</i>)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (item 93): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (<i>j</i>)	—
<i>Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001</i>	143, 2001	1 Oct 2001	2 Oct 2001	S. 4 [see Table A]
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch 1 (item 97) [see Table A]
<i>Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003</i>	150, 2003	19 Dec 2003	Schedule 2 (items 64–89): (<i>k</i>)	Sch. 2 (item 89) [see Table A]
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	Schedule 2 (items 130–134, 174): Royal Assent	Sch. 2 (item 174) [see Table A]
<i>Higher Education Legislation Amendment (2005 Measures No. 1) Act 2005</i>	56, 2005	25 May 2005	Schedule 4: Royal Assent	Sch. 4 (item 10) [see Table A]

Act Notes

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- (a) The *Maritime College Act 1978* was amended by Part LXXVII (section 280) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:
- (1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.
- (b) The *Maritime College Act 1978* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1984*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (c) The *Maritime College Act 1978* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (d) The *Maritime College Act 1978* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1988*, subsections 2(1) and (5) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (5) Paragraph 11(1)(ca) of the *Maritime College Act 1978* as amended by this Act commences on a day to be fixed by Proclamation for the purposes of this subsection.
- In pursuance of subsection 2(5) the date of commencement was 15 September 1988 (see *Gazette* 1988, No. S278).
- (e) The *Maritime College Act 1978* was amended by sections 94, 95 and 124 only of the *Higher Education Funding Act 1988*, subsection 2(1) of which provides as follows:
- (1) Chapters 1, 2, 3, 4, 6 and 7 commence on the day on which this Act receives the Royal Assent.
- (f) The *Higher Education Funding Amendment Act (No. 2) 1992* was amended by Schedule 3 (item 29) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (g) The *Maritime College Act 1978* was amended by Schedule 1 (items 34 and 35) only of the *Higher Education Legislation Amendment Act 1996*, subsection 2(3) of which provides as follows:
- (3) Items 1, 2, 3, 12, 34 and 35 of Schedule 1 commence on 1 January 1998.
- (h) The *Maritime College Act 1978* was amended by Schedule 2 only of the *Education Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (i) The *Maritime College Act 1978* was amended by Schedule 2 (items 903–910) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (j) The *Maritime College Act 1978* was amended by Schedule 10 (item 93) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
 - (c) the items in Schedules 10, 11 and 12.
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Act Notes

(k) Subsection 2(1) (item 6) of the *Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
6. Schedule 2, Part 5	The later of: (a) 1 March 2004; and (b) the 28th day after the commencement of sections 1-10 to 238-15 of the <i>Higher Education Support Act 2003</i> .	1 March 2004

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 4.....	am. No. 38, 1988; No. 79, 1994; No. 150, 2003; No. 8, 2005
S. 4A.....	ad. No. 143, 2001
Note to s. 5(2).....	ad. No. 152, 1997
S. 7.....	am. No. 150, 2003
S. 8.....	am. No. 38, 1988
S. 9.....	am. No. 80, 1982; No. 38, 1988
S. 11.....	am. No. 38, 1988; No. 79, 1994 rs. No. 150, 2003
S. 12.....	am. No. 38, 1988 rep. No. 79, 1994
S. 13.....	am. No. 38, 1988; No. 79, 1994; No. 150, 2003
S. 14.....	am. No. 79, 1994
S. 15.....	am. No. 79, 1994; No. 150, 2003; No. 56, 2005
S. 16.....	rep. No. 72, 1984
S. 17.....	am. No. 79, 1994; No. 152, 1997; No. 156, 1999 rs. No. 150, 2003 am. No. 56, 2005
S. 18.....	am. No. 38, 1988; No. 79, 1994 rep. No. 152, 1997
S. 19.....	am. No. 38, 1988; No. 79, 1994; No. 150, 2003
S. 20.....	am. No. 38, 1988; No. 79, 1994 rep. No. 150, 2003
Ss. 21, 22.....	am. No. 79, 1994
Ss. 22A–22G.....	ad. No. 150, 2003
S. 24.....	am. No. 38, 1988; No. 79, 1994; No. 150, 2003
S. 24A.....	ad. No. 66, 1997
S. 26.....	am. No. 79, 1994; No. 159, 2001; No. 150, 2003; No. 56, 2005
S. 27.....	am. No. 79, 1994; No. 56, 2005
S. 29.....	rep. No. 87, 1988
S. 30.....	rep. No. 65, 1985
S. 32.....	am. No. 126, 1987; No. 2, 1989; No. 158, 1992 (as am. by No. 43, 1996); No. 74, 1996 rs. No. 150, 2003
S. 32A.....	ad. No. 137, 1986 am. No. 126, 1987 rep. No. 2, 1989 ad. No. 150, 2003
Ss. 32B, 32C.....	ad. No. 150, 2003
S. 33.....	rep. No. 158, 1992 ad. No. 152, 1997
S. 34.....	am. No. 38, 1988; No. 152, 1997

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 35.....	rs. No. 38, 1988 rep. No. 152, 1997
Ss. 36, 37.....	rs. No. 38, 1988 am. No. 8, 2005
Ss. 37A, 37B.....	ad. No. 38, 1988
S. 37C.....	ad. No. 38, 1988 am. No. 152, 1997 rs. No. 8, 2005
S. 37D.....	ad. No. 38, 1988
S. 37E.....	ad. No. 38, 1988 rep. No. 152, 1997
S. 39.....	rep. No. 38, 1988

Table A

Table A

Application, saving or transitional provisions

Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001 (No. 143, 2001)

4 Application of Amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001
(No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

Table A

Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003 (No. 150, 2003)

Schedule 2

89 Transitional provision

A person who, immediately before the commencement of this Part, had been appointed under section 26 of the *Maritime College Act 1978* as Principal continues to hold office as Principal on and after the commencement of this Part for the balance of the term of his or her appointment.

Financial Framework Legislation Amendment Act 2005 (No. 8, 2005)

Schedule 2

174 Saving provision—provisions that formerly referred to the Treasurer

- (1) Any thing that:
- (a) was done by the Treasurer, or by a delegate of the Treasurer, before the commencing time under an affected provision; and
 - (b) was in effect immediately before the commencing time;
- continues to have effect after the commencing time as if it had been done by the Finance Minister under the affected provision.
- (2) In this item:
- affected provision*** means a provision that is amended by an item in this Schedule so as to replace references to the Treasurer with references to the Finance Minister.
- commencing time*** means the day this Act receives the Royal Assent.
- Finance Minister*** means the Minister who administers the *Financial Management and Accountability Act 1997*.

Table A

Higher Education Legislation Amendment (2005 Measures No. 1) Act 2005
(No. 56, 2005)

Schedule 4

10 Application and savings

- (1) A person who, immediately before the commencement of this item, had been appointed under section 26 of the *Maritime College Act 1978* as Principal continues to hold office as Principal on and after the commencement of this item for the balance of the term of his or her appointment, as if the person had been appointed under that section (as amended by this Act).
- (2) The amendment made by item 4 of this Schedule applies to each person holding office as a member of the Council under the *Maritime College Act 1978* on or after the commencement of that item, whether that person was appointed to that office before or after that commencement.