

# MARITIME COLLEGE ACT 1978

## No. 54 of 1978

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# MARITIME COLLEGE ACT 1978

## No. 54 of 1978

An Act relating to the Australian Maritime College.

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

1. This Act may be cited as the *Maritime College Act 1978*.<sup>1</sup> Short title
2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement
3. The *Maritime College Act 1976*<sup>2</sup> is repealed. Repeal
4. In this Act unless the contrary intention appears— Interpretation
  - “Chairman” means Chairman of the Council;
  - “College” means the Australian Maritime College referred to in section 5;
  - “Council” means the Council of the College;
  - “Deputy Chairman” means Deputy Chairman of the Council;
  - “*ex officio* member” means a person who is a member by virtue of being the Principal or the Chairman;
  - “member” means a member of the Council;
  - “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);
  - “staff member” means a member referred to in paragraph 11 (1) (c);
  - “Statutes” means the Statutes of the College made by the Council under this Act;
  - “student member” means a member referred to in paragraph 11 (1) (d);
  - “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;
  - “term of office”, in relation to a staff member or a student member, means the term of office for which the member is elected;
  - “year” means the period of 12 months commencing on 1 January.

The College      5. (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.

(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.

Seat of  
College

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

Functions of  
College

7. The functions of the College are—

- (a) to conduct an institution for the provision of such maritime and maritime-related education and training as the Council, with the approval of the Minister, determines, or as the Minister requires, being principally tertiary education for persons who wish to become, or are, officers on merchant or fishing vessels or who wish to become, or are, otherwise engaged in connexion with shipping or the fishing industry;
- (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;
- (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;
- (d) to consult and maintain liaison with other institutions and authorities in Australia that are concerned with the provision of maritime education and training; and
- (e) to do anything incidental or conducive to the performance of any of the preceding functions.

Powers of  
College

8. (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 sub-section (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; and
- (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.

(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.

**9.** The College may, in pursuance of arrangements between the College and the Minister for Transport, conduct on behalf of the Commonwealth—

Courses of maritime training, &c.

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

**10.** (1) The College shall be governed by a council by the name of the Council of the Australian Maritime College.

The Council

(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.** (1) The Council shall consist of not fewer than 14 nor more than 23 members, namely—

Constitution of Council

- (a) the Principal;
- (b) persons not exceeding 12 in number appointed by the Governor-General;
- (c) 2 members of the teaching staff of the College elected by that teaching staff;
- (d) one student of the College elected by the students of the College;
- (e) persons not exceeding 6 in number appointed by the Council; and
- (f) if a person other than a person who is a member is appointed to be Chairman in accordance with section 15, the person so appointed.

(2) 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, shall be deemed to be a member.

(3) Notwithstanding sub-section (1), the Council may commence to function when at least 9 members have been appointed and may continue to function during the period of 6 months immediately following its so commencing so long as it continues to have at least 9 members.

**Election of  
staff  
members**

**12.** Of the 2 staff members, one shall be elected by the whole of the teaching staff of the College and the other shall be elected by the senior teaching staff of the College.

**Term of  
office**

**13.** (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 holds office as Principal.

(3) A member referred to in paragraph 11 (1) (b) or (e) holds office for such period, not exceeding 4 years, as is specified in his instrument of appointment.

(4) Of the staff members first elected, one holds office for a period of 1 year, and the other holds office for a period of 2 years, commencing on a date to be determined by the Minister.

(5) Except as provided by sub-section (4), each staff member holds office for a period of 2 years commencing on—

- (a) the day on which the poll for the election of the member is held; or
- (b) if that day occurs before the expiration of the term of office of the person whose place he fills, the day after the expiration of that term.

(6) A student member holds office for a period of 1 year.

(7) The term of office referred to in sub-section (6) shall—

- (a) in the case of the student member who is first elected—commence on a date to be determined by the Minister; or
- (b) in any other case—commence on—
  - (i) the day on which the poll for the election of the member is held; or
  - (ii) if that day occurs before the expiration of the term of office of the person whose place he fills, the day after the expiration of that term.

(8) A person who becomes a member by virtue of his appointment as Chairman in accordance with section 15 holds office as a member while he holds office as Chairman.

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

15. (1) Subject to sub-section (2), the Council shall—

(a) appoint a person (whether a member or not) to be Chairman; Chairman and Deputy Chairman  
and

(b) appoint a member to be Deputy Chairman.

(2) The Principal shall not be appointed as Chairman or Deputy Chairman.

(3) If a person who is not a member is appointed as Chairman, that person—

(a) subject to sub-section (5), holds office as Chairman for such period, not exceeding 4 years, as is specified in his instrument of appointment, but is eligible for re-appointment as Chairman; and

(b) may resign his office as Chairman by writing signed by him and delivered to the Minister.

(4) A member appointed as Chairman or Deputy Chairman—

(a) subject to sub-section (5), holds office as Chairman or Deputy Chairman, as the case may be, for such period as is specified in his instrument of appointment, which shall be a period that expires on or before the expiration of his term of office as a member that is current at the time of the appointment, but, if he remains a member or is re-appointed or re-elected as a member, is eligible for re-appointment as Chairman or Deputy Chairman;

(b) may resign his office as Chairman or Deputy Chairman by writing signed by him and delivered to the Minister; and

(c) ceases to be Chairman or Deputy Chairman if he ceases to be a member.

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

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

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

(3) Sub-sections (1) and (2) have effect subject to the *Remuneration Tribunals Act 1973*.

(4) In this section, “member” does not include the Principal, a staff member or a student member.

Removal  
from office

**17. (1)** The Governor-General may remove a member from office on the ground of misbehaviour or physical or mental incapacity.

(2) If a member—

- (a) 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;
- (b) fails to comply with an obligation imposed on him by section 18; or
- (c) is absent, without leave of the Council, from 3 consecutive meetings of the Council,

the Governor-General shall remove him from office.

(3) In this section, “member” does not include the Principal.

Disclosure of  
interest

**18. (1)** A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council, otherwise than as a member of, and in common with the other members of, an incorporated company which consists of more than 25 persons and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Council and the member shall not be present during any deliberation of the Council with respect to that matter.

Member to  
cease to hold  
office in  
certain  
circumstances

**19. (1)** A member (other than the Principal) may resign his office by writing signed by him and delivered to the Minister.

(2) A staff member shall cease to hold office as a member if he ceases to be a member of the teaching staff of the College.

(3) A student member shall cease to hold office as a member if he ceases to be a student of the College as defined by the Statutes for the purposes of elections.

Casual  
vacancy in  
office of  
elected  
member

**20.** If a staff member or a student member has ceased to hold office before the expiration of his term of office, a person shall, if the Minister so directs, be elected to hold the vacant office from the date of his election until the expiration of that term.

First meeting  
of Council

**21.** 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 Chairman and the Deputy Chairman.

**22.** (1) The Chairman or, if the Chairman is not available, the Deputy Chairman— Meetings of Council

- (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 Chairman nor the Deputy Chairman is available, the Minister may convene a meeting of the Council.

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

(4) Where the Chairman is not present at a meeting of the Council—

- (a) the Deputy Chairman shall preside at that meeting; or
- (b) if the Deputy Chairman 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 sub-section (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 Chairman or Deputy Chairman is vacant, this section has effect as if there were a holder of that office but he were unavailable.

**23.** No act or proceeding of the Council is invalidated by reason of— Validity of proceedings

- (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.** (1) The Council may make Statutes, not inconsistent with this Act, with respect to any of the following matters: Statutes

- (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 respectively regarded as members of the teaching staff, and as members of the senior teaching staff, of the College for the purposes of this Act;
- (d) the election of the staff members by the teaching staff of the College (including the election of a person to fill a casual vacancy in the office of a staff member) and, for the purposes of such an election—
  - (i) the determination of questions arising in relation to the conduct or result of that election; and
  - (ii) the determination by lot of the staff member first elected who is to hold office for an initial period of one year in accordance with sub-section 13 (4);
- (e) the election of the student member by the students of the College (including the election of a person to fill a casual vacancy in the office of the student member) and, for the purposes of such an election—
  - (i) the persons who are to be regarded as students of the College; and
  - (ii) the determination of questions arising in relation to the conduct or result of that election;
- (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
- (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 sub-section (1), or for carrying out or giving effect to the Statutes made under that sub-section.

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

**25.** (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.** (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. The  
Principal

(2) The Minister shall appoint the first Principal and the Council shall appoint succeeding Principals.

(3) A member shall not be appointed as the Principal.

(4) Subject to sub-section (5), the Principal shall hold office for such period as is specified in his 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) A person who has attained the age of 65 years shall not be appointed or re-appointed as Principal and a person shall not be appointed or re-appointed as Principal for a period that extends beyond the date on which he will attain the age of 65 years.

(6) Subject to this section, the Principal holds office on such terms and conditions as are determined by—

(a) in the case of the first Principal—the Minister; or

(b) in any other case—the Council.

**27.** (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 office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months. Acting  
Principal

- (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 resigns his appointment by writing signed by him and delivered to the Minister.

(5) While a person is acting as Principal by virtue of an appointment under this section, he 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 appointment had not arisen;
- (b) the appointment had ceased to have effect; or
- (c) the occasion for his acting as Principal had not arisen.

Staff of  
College

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

Salaries of  
academic  
staff

**29.** (1) This section applies to the members of the staff of the College who are academic staff of the College within the meaning of Part III of the *Remuneration Tribunals Act 1973*.

(2) If there is in operation a determination by the Academic Salaries Tribunal of the salaries of the members of the staff of the College to which this section applies, those members of the staff of the College shall be paid salaries in accordance with that determination.

Rights of  
public  
servants

**30.** If the Principal or a full-time member of the staff of the College was, immediately 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 the Principal or as a member of the staff of the College shall be taken into account as if it were service in the Australian 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.

**31. (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. Contracts by College

- (2) A contract to which sub-section (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. (1)** Fees are not payable to the College except as provided by this section. Fees

(2) The Council, with the approval of the Minister, may determine, or the Minister may direct, that fees are to be payable to the College in respect of such matters as are specified in the determination or direction.

(3) Fees payable in accordance with sub-section (2) shall be at such rates as, subject to any directions of the Minister, the Council determines.

(4) The Council, with the approval of the Minister, may determine, or the Minister may direct, that the payment of fees in accordance with sub-section (2) shall be subject to such exemptions as are specified in the determination or direction.

**33. (1)** There are payable to the College such moneys as are appropriated by the Parliament for the purposes of the College. Moneys of College

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in sub-section (1) are to be paid to the College.

- 34.** The moneys of the College may be applied by the College only— Application of moneys
- (a) in payment or discharge of the costs and expenses of the College under this Act; and
  - (b) in payment of any remuneration or allowance payable to any person under this Act.

**35. (1)** The College may open and maintain an account or accounts with an approved bank or approved banks, and shall maintain at all times at least one such account. Bank accounts

(2) The college shall pay all moneys received by it into an account referred to in this section.

(3) In this section, “approved bank” means the Reserve Bank of Australia or another bank approved by the Treasurer.

Proper  
accounts to  
be kept

36. The College shall cause to be kept proper accounts and records of the transactions and affairs of the College and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the College and over the incurring of liabilities by the College.

Audit

37. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the College and the records relating to assets of, or in the custody of, the College, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(4) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the College relating directly or indirectly to the receipt or payment of moneys by the College or to the acquisition, receipt, custody or disposal of assets by the College.

(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6) The Auditor-General or a person authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

Taxation

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

Annual  
reports

39. (1) The Council shall, as soon as practicable after 31 December 1979, and after each succeeding 31 December, prepare and furnish to the Minister a report of the operations of the College during the year ending on that date, together with financial statements in respect of that year in such form as the Minister for Finance approves.

(2) In sub-section (1), “year”, in relation to 31 December 1979, means the period commencing on the date of commencement of this Act and ending on 31 December 1979.

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

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the College during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(4) The Minister shall cause copies of the report and financial statements furnished by the Council, together with a copy of the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

**40.** 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. Regulations

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#### NOTES

1. Act No. 54, 1978; assented to 20 June 1978.
2. Act No. 84, 1976.