

1996

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Education and Training)

Hotel School Bill 1996

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1996

THE LEGISLATIVE ASSEMBLY
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(As presented)

(Minister for Education and Training)

Hotel School Bill 1996

A BILL

FOR

**An Act relating to the Australian International
Hotel School**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

5 1. This Act may be cited as the *Hotel School Act 1996*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

10 (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Interpretation

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

“Board” means the Board of Management of the School;

“Director” means the Director of the School;

5 “School” means the Australian International Hotel School continued in existence by section 4;

“staff”, in relation to the School, means the persons employed or engaged by the School.

PART II—AUSTRALIAN INTERNATIONAL HOTEL SCHOOL

10

Continuation of former School

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4. (1) The body corporate named the Australian International Hotel School, in existence under the *Canberra Institute of Technology Act 1987* immediately before the commencement of this Part, continues in existence under this Act, with the same name, by force of this section.

(2) The School—

(a) continues as a body corporate; and

(b) shall have a common seal.

Functions

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5. The School has the following functions:

(a) to provide education and training to develop knowledge and skills in relation to—

(i) hotel management; and

(ii) related fields approved in writing by the Minister;

25

(b) to confer awards in relation to courses and programs conducted by the School;

(c) to consult and cooperate with other institutions, persons or bodies in relation to the provision of educational or training services in hotel management and related fields;

30

(d) to make suitable arrangements with industry and the commercial community in connection with the performance of its functions;

(e) to do anything incidental to any of its functions.

Ministerial directions

6. (1) The Minister may give written directions to the School in relation to the performance of its functions, either generally or in relation to a particular matter.

5 (2) The School shall give effect to any such direction.

(3) The Minister shall present a copy of any such direction to the Legislative Assembly within 5 sitting days after it is given to the School.

10 (4) A report by the School for the purposes of section 8 of the *Annual Reports (Government Agencies) Act 1995* shall include, in relation to the reporting period,—

(a) a copy of any direction given to the School by the Minister during the period; and

(b) particulars of the measures taken during the period to give effect to a direction by the Minister.

15 Powers

7. The School has power to do all things necessary or convenient to be done in connection with the performance of its functions and, in particular, may—

- 20 (a) erect buildings and structures and carry out works;
- (b) occupy, use and control any land or building made available to the School by another person;
- (c) charge fees in connection with courses or programs conducted by the School;
- (d) provide goods, services, facilities or resources to any person;
- 25 (e) charge for the provision of goods, services, facilities or resources;
- (f) conduct a hotel for the purposes of the School;
- (g) accept gifts, grants, devises and bequests, whether on trust or otherwise, and act as trustee of moneys or other property vested in it on trust;
- 30 (h) provide scholarships and like benefits;
- (j) appoint agents and attorneys;
- (k) act as an agent for another person;
- (m) obtain commercial sponsorship;

- (n) establish and maintain library, museum, art and other collections;
and
- (p) do anything incidental to any of its powers.

Limits on contracts

5 **8. (1)** The School shall not enter into a contract involving the payment or receipt of an amount exceeding the prescribed amount except in writing, and in accordance with the written approval of the Minister.

(2) In subsection (1)—

“prescribed amount” means—

- 10 (a) \$50,000; or
- (b) if another amount is prescribed by the regulations—the amount so prescribed.

Formation of companies etc.

9. The School shall not—

- 15 (a) form, or participate in the formation of, a company; or
- (b) subscribe for, or purchase, company shares or securities.

Partnerships and joint ventures

10. (1) The School shall not—

- (a) enter into a partnership; or
- 20 (b) participate in a joint venture not involving the formation of a company by the School;

except in accordance with the written approval of the Minister.

(2) The Minister’s approval—

- (a) shall be given particularly, not generally; and 4
- 25 (b) may be subject to specified conditions.

(3) Within 15 sitting days after the date of an approval, the Minister shall present a statement to the Legislative Assembly setting out particulars of the activity approved and the reasons for the approval.

30 (4) The Minister may omit from such a statement particular matter which the Minister believes on reasonable grounds would adversely affect the commercial interests of the School.

(5) Where subsection (4) applies, the Minister shall ensure that the statement indicates the general nature of the matter omitted and the reasons for the omission.

PART III—BOARD OF MANAGEMENT

5 *Division 1—Establishment, functions and powers*

Establishment

11. There shall be a Board of Management of the School.

Functions

12. (1) The Board shall manage the affairs of the School.

10 (2) Without limiting the generality of subsection (1), the Board shall—

- (a) decide the strategies and policies to be followed by the School in performing its functions; and
- (b) ensure the efficient and cost effective functioning of the School.

15 **Report to Minister**

13. Where the Minister gives a written direction to the Chairperson requiring the Board to inquire into and report on a matter concerning the School, the Board shall provide the Minister with a report on the matter, including a recommendation where appropriate, within the period specified in the direction.

Powers

14. (1) The Board has power to do all things necessary or convenient to be done in connection with the performance of its functions.

25 (2) Without limiting the generality of subsection (1), the Board may make arrangements, or give directions to staff or students, in relation to the performance of its functions, particularly in relation to the following matters:

- (a) the general governance and financial management of the School;
- 30 (b) the employment or engagement of persons for the purposes of the School;
- (c) the enrolment and assessment of students and their admission to examinations;
- (d) the conferral of awards, including honorary awards;

- (e) the payment of fees or charges;
 - (f) the granting of scholarships, bursaries and prizes;
 - (g) the association or affiliation with the School of any person, body or institution;
 - 5 (h) any other matter incidental to the performance of its functions.
- (3) An arrangement made, or direction given, under subsection (2) shall not be inconsistent with the *Financial Management Act 1996* or the financial management guidelines under that Act.

Division 2—Constitution

10 **Membership**

15 **15.** The Board consists of—

- (a) the Director; and
- (b) not more than 8 non-executive members.

Appointment and terms of office of non-executive members

15 **16.** Schedule 1 has effect in relation to the non-executive members of the Board.

Chairperson and Deputy Chairperson

17. (1) The Chairperson of the Board shall be a non-executive member appointed in writing by the Minister.

20 **(2)** The Deputy Chairperson of the Board shall be a non-executive member appointed in writing by the Minister.

(3) A member of the staff of the School is not eligible to be appointed as the Chairperson or Deputy Chairperson of the Board.

Division 3—Meetings

25 **Convening meetings**

18. The Chairperson shall convene a meeting of the Board—

- (a) at least twice during each academic term of the School;
- (b) on receipt of a written direction to do so by the Minister;
- (c) on receipt of a written request to do so by—

- 30 (i) the Director; or
- (ii) at least 3 other members; and

- (d) at such other times as the Chairperson considers necessary for the efficient performance of its functions.

Presiding at meetings

5 **19. (1)** The Chairperson shall preside at all meetings of the Board at which he or she is present.

(2) If the Chairperson is absent from a meeting of the Board, the Deputy Chairperson shall preside.

10 **(3)** If the Chairperson and Deputy Chairperson are both absent from a meeting of the Board, the members present shall elect a member, other than the Director, to preside.

Quorum and voting

20. At a meeting of the Board—

- 15 (a) 5 members constitute a quorum;
- (b) a question arising shall be determined by a majority of votes of the members present and voting; and
- (c) the member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Procedure

20 **21. (1)** The Board may determine the procedures to be followed in relation to its meetings.

(2) The Board shall keep a record of its proceedings.

Disclosure of interests

25 **22. (1)** A member of the Board who has a direct or indirect interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure shall be recorded in the minutes of the meeting and, unless the Board otherwise determines, the member shall not—

- 30 (a) be present during any deliberation of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.
- (3)** A member referred to in subsection (2) shall not—

- (a) be present during any deliberation of the Board for the purpose of considering whether to make a determination under that subsection in relation to that member; or
 - (b) take part in the making by the Board of such a determination.
- 5 (4) A member of the Board shall not be taken to have an interest in a matter only because of his or her office as member.

PART IV—ADMINISTRATION

Division 1—Director

Director

10 23. There shall be a Director of the School.

Functions

24. (1) The Director shall manage the affairs of the School on a daily basis—

- (a) on behalf of the Board; and
- 15 (b) in accordance with the strategies and policies decided, and any directions given, by the Board.

(2) Anything done in the name of, or on behalf of, the School by the Director shall be taken to have been done by the School.

Appointment and terms of office

20 25. Schedule 2 has effect in relation to the Director.

Powers

26. The Director has power to do all things necessary or convenient to be done in connection with the performance of his or her functions.

Delegation

25 27. The Director may, in writing, delegate all or any of the Director's powers under this Act to a member of the staff of the School.

Division 2—Personnel

Employees

30 28. (1) The School may employ persons for the performance of its functions.

(2) The terms and conditions of employment shall be as determined in writing by the Board.

Consultants etc.

5 **29. (1)** The School may engage persons other than employees to assist in relation to the performance of its functions.

(2) The terms and conditions of engagement shall be as determined in writing by the Board.

Division 3—Finance

Fees

10 **30. (1)** Fees determined by the Board are payable to the School in relation to attendances at courses or programs conducted by the School.

(2) A determination shall be made by notice published in the *Gazette*.

Money of the School

31. The money of the School consists of—

- 15 (a) money paid to the School in accordance with an appropriation by an Act for the purposes of the School;
- (b) money borrowed by, or on behalf of, the School in accordance with the *Financial Management Act 1996*;
- 20 (c) fees paid to the School in connection with courses or programs conducted by the School;
- (d) money received by the School in respect of the provision of goods, services, facilities or resources;
- (e) the proceeds of the sale or other disposition of any property of the School;
- 25 (f) money received by the School in respect of sponsorships;
- (g) money received by the School by way of, or as a result of, a gift, grant, devise or bequest; and
- (h) any money derived by the School in the performance of its functions.

30 Liability for ACT taxes etc.

32. The School is not exempt from liability for any tax, fee, charge or levy imposed by a law of the Territory.

Application of money

33. The money of the School is to be applied only—

- (a) in payment or discharge of expenses, obligations and liabilities of the School arising under or by virtue of this Act; and
- 5 (b) in payment of remuneration, allowances and fees payable under this Act.

Trust money

34. The School shall pay money held on trust into a bank account maintained under section 55 of the *Financial Management Act 1996*.

10 Application of Part VIII, Financial Management Act

35. (1) Part VIII of the *Financial Management Act 1996* has effect in relation to the School as if the references in that Part to the chief executive officer of a statutory authority were references to the Board.

15 (2) Subsection (1) shall not be taken to prevent the Director from acting on behalf of the Board.

PART V—MISCELLANEOUS

Immunity from suit

36. (1) No action, suit or proceeding lies against a person who is or has been—

- 20 (a) the Director; or
- (b) a non-executive member of the Board;

in relation to an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of a power or function under, or for the purposes of, this Act.

25 (2) Subsection (1) does not affect any liability that the School or Territory would have, but for that subsection, in respect of the act or omission.

Regulations

37. The Executive may make regulations for the purposes of this Act.

30 PART VI—TRANSITIONAL PROVISIONS

Interpretation

38. In this Part—

“CIT Act” means the *Canberra Institute of Technology Act 1987*;

“separation day” means the day on which Part II commences.

Board of Management—first non-executive members

5 **39.** A person who was an appointed member of the Management Advisory Board under the CIT Act immediately before the separation day holds office on and after that day, subject to this Act, as a non-executive member of the Board of Management for the remainder of the term of the appointment under the CIT Act.

Board of Management—first presiding members

10 **40. (1)** A person who was a presiding member of the Management Advisory Board under the CIT Act immediately before the separation day holds office on and after that day, subject to this Act, as a presiding member of the Board of Management for the remainder of the term of the appointment under the CIT Act.

15 **(2)** In subsection (1)—

“presiding member” means—

(a) Chairperson or Deputy Chairperson; or

(b) a person appointed to act as Chairperson or Deputy Chairperson.

20 **New Director—former Dean**

41. The person who was the Dean of the School under the CIT Act immediately before the separation day holds office on and after that day, as the Director of the School—

25 (a) for the remainder of the term of the appointment under the CIT Act; and

(b) on the terms and conditions of the appointment under the CIT Act.

Continuing employees

30 **42. (1)** A person who was employed by the School under paragraph 50 (1) (a) of the CIT Act immediately before the separation day continues to be employed by the School on and after that day on the same terms and conditions of employment that applied under the CIT Act.

(2) For the purposes of subsection (1)—

(a) the Board has all the powers that were held by the Director under section 50 of the CIT Act—

(i) to determine the terms and conditions of the employment;
or

(ii) to take any other action concerning the employment; and

5 (b) a reference to the Director in an instrument or document concerning the employment, shall, except in relation to a matter that occurred before the separation day, be read as a reference to the Board.

10 (3) Subsection (1) shall not be taken to prevent the variation or termination of employment in accordance with the contract of employment, or any applicable law, award or determination.

Savings—instruments made under CIT Act

43. An instrument specified in the second column of Schedule 3 that was—

15 (a) made under, or for the purposes of, a provision of the CIT Act specified in the third column of the Schedule; and

(b) in force in relation to the School immediately before the separation day;

20 has effect on and after that day as if it were an instrument made under, or for the purposes of, the corresponding provision of this Act specified in the fourth column of the Schedule.

References to former Director or Dean

44. A reference to the Director, or Dean, under the CIT Act in—

(a) any other enactment or a subordinate law; or

(b) any instrument or document;

25 shall, except in relation to a matter that occurred before the separation day, be read as a reference to the Board.

Acts done on behalf of School

30 45. An act done on behalf of the School before the separation day by the person who was the Director or Dean under the CIT Act has effect, on and after that day, as if it had been done on behalf of the School by the Director of the School.

Reports 1996-97

46. The *Annual Reports (Government Agencies) Act 1995* has effect in relation to the School as if the references in subsection 8 (1) of that Act

to a reporting period included references to the year ending on 31 December 1996 and the 6 months ending on 30 June 1997.

Financial statements 1996-97

5 47. Part VIII of the *Financial Management Act 1996* has effect in relation to the School as if the references in that Part to a financial year included references to the year ending on 31 December 1996 and the 6 months ending on 30 June 1997.

7

SCHEDULE 1

Section 16

APPOINTMENT AND TERMS OF OFFICE OF NON-EXECUTIVE MEMBERS OF BOARD

Appointment

- 5 1. The non-executive members of the Board shall be appointed by the Minister in writing.

Terms of office

2. (1) A non-executive member of the Board holds office, subject to this Act—
- 10 (a) for the period specified in the instrument of appointment; and
- (b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are specified in the instrument of appointment.
- (2) The period of appointment shall not be more than 3 years.
- 15 (3) A former non-executive member of the Board is eligible for reappointment.

Remuneration and allowances

3. A non-executive member of the Board is entitled to such remuneration, allowances and other entitlements—
- 20 (a) as are determined by the Remuneration Tribunal in respect of such a member; or
- (b) if there is no such determination—as are determined by the Chief Minister in respect of such a member by an interim determination under the *Remuneration Tribunal Act 1995*.

25 Resignation

4. A non-executive member of the Board may resign by giving a signed notice of resignation to the Minister.

Acting members

- 30 5. (1) The Minister may, in writing, appoint a person to act in the office of Chairperson, Deputy Chairperson or a non-executive member—
- (a) during a vacancy in the office, whether or not an appointment has previously been made to the office; or

SCHEDULE 1—continued

(b) during any period, or during all periods, when the holder of the office is for any reason unable to perform the functions of the office.

5 (2) A person appointed to act during a vacancy in an office shall not so act continuously for more than 12 months.

(3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subsection (1) is not invalid on the ground that—

10 (a) the appointment was ineffective or had ceased to have effect; or

(b) the occasion to act had not arisen or had ceased.

(4) The Director is not eligible to be appointed under subsection (1).

SCHEDULE 2

Section 25

APPOINTMENT AND TERMS OF OFFICE OF DIRECTOR

Appointment

1. The Director shall be appointed by the Minister in writing.

5 **Terms of office**

2. (1) The Director holds office, subject to this Act—

(a) for the period specified in the instrument of appointment; and

10 (b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are specified in the instrument of appointment.

(2) The period of the appointment shall not be more than 3 years.

(3) A former Director is eligible for reappointment.

Remuneration and allowances

15 3. The Director is entitled to such remuneration, allowances and other entitlements—

(a) as are determined by the Remuneration Tribunal in respect of the Director; or

20 (b) if there is no such determination—as are determined by the Chief Minister in respect of the Director by an interim determination under the *Remuneration Tribunal Act 1995*.

Resignation

4. The Director may resign by giving a signed notice of resignation to the Minister.

Acting Director

25 5. (1) The Minister may, in writing, appoint a person to act as the Director—

(a) during a vacancy in the office of Director, whether or not an appointment has previously been made to the office; or

30 (b) during any period, or during all periods, when the Director is for any reason unable to perform the functions of the office.

(2) A person appointed to act as the Director during a vacancy in the office of Director shall not so act continuously for more than 12 months.

SCHEDULE 2—continued

(3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subclause (1) is not invalid on the ground that—

- (a) the appointment was ineffective or had ceased to have effect; or
- 5 (b) the occasion to act had not arisen or had ceased.

7

SCHEDULE 3

Section 43

SAVINGS—INSTRUMENTS MADE UNDER CIT ACT

| Item | Instrument | Provision—CIT Act | Corresponding provision—this Act |
|------|---|---------------------|----------------------------------|
| 1 | Minister's approval of related fields of education | Paragraph 8 (1) (a) | Subparagraph 5 (a) (ii) |
| 2 | Minister's approval to enter contract | Paragraph 9 (2) (a) | Subsection 8 (1) |
| 3 | Minister's approval to enter partnership | Subsection 11 (1A) | Subsection 10 (1) |
| 4 | Minister's approval to participate in joint venture | Subsection 12 (1) | Subsection 10 (1) |
| 5 | Financial or accounting directions issued by Dean | Subsection 26 (2) | Subsection 14 (2) |
| 6 | Determination of terms and conditions of employment | Subsection 50 (2) | Subsection 28 (2) |
| 7 | Determination of School fees | Subsection 53 (2A) | Subsection 30 (1) |
| 8 | Delegations | Subsection 62 (1) | Section 27 |