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AUSTRALIAN CAPITAL TERRITORY

A.C.T. INSTITUTE OF TECHNICAL AND FURTHER EDUCATION ACT 1987

Reprinted as at 28 February 1991

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AUSTRALIAN CAPITAL TERRITORY

A.C.T. INSTITUTE OF TECHNICAL AND FURTHER EDUCATION ACT 1987

An Act to establish an Institute of Technical and Further Education in the
Australian Capital Territory

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *A.C.T. Institute of Technical and Further Education Act 1987*.¹

Commencement

2. This Act shall come into operation on such date as is fixed by the Minister by notice in the *Gazette*.¹

Interpretation

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

“appoint” includes re-appoint;

“Chairperson” means the Chairperson of the Committee;

“Committee” means the A.C.T. Institute of Technical and Further Education Advisory Committee established by section 18;

“Deputy Chairperson” means the Deputy Chairperson of the Committee;

“Director” means the Director of the Institute;

“Institute” means the A.C.T. Institute of Technical and Further Education;

“joint venture” means an undertaking carried on by 2 or more persons in common otherwise than as partners;

“member” means a member of the Committee;

“para-professional training” means training which leads to the award of an Associate Diploma;

“securities” includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents;

“share” means a share in the share capital of a corporation, and includes stock;

“staff”, in relation to the Institute, means persons employed by the Institute under section 19;

“technical and further education” means education provided by way of a course of instruction or training that is, or that is preparatory to, a course of a kind relevant to a trade, technical or other skilled occupation or that otherwise meets the educational needs of individuals and includes para-professional and professional training.

(2) The question whether a company is a subsidiary of the Institute shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the *Companies Act 1981* of the Commonwealth

PART II—A.C.T. INSTITUTE OF TECHNICAL AND FURTHER EDUCATION

Establishment of Institute

4. (1) There is established a body known as the A.C.T. Institute of Technical and Further Education.

(2) The Institute—

- (a) is a body corporate, with perpetual succession;
- (b) shall have a common 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 common seal of the Institute shall be kept in such custody as the Institute directs and shall not be used except as authorised by the Institute.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Institute affixed to a document and shall presume that it was duly affixed.

Constitution of Institute

5. (1) At the commencement of this Act, the Institute shall consist of—

- (a) the institution previously known as the Canberra College of Technical and Further Education;
- (b) the institution previously known as the Bruce College of Technical and Further Education;
- (c) the institution previously known as the Woden College of Technical and Further Education; and
- (d) any other department, institution, authority, or part of any other department, institution or authority declared by the Minister to be part of the Institute at the commencement of this Act.

(2) At any other time, the Institute shall consist of the institutions and other departments and authorities in subsection (1) and any other fields of technical and further education as the Director, with the written approval of the Minister, determines or the Minister requires.

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

- (a) a determination by the Director; and
- (b) a requirement by the Minister;

shall be in writing.

Functions of Institute

6. (1) The functions of the Institute are—

- (a) to conduct, principally in the Territory, an educational institution for the purpose of fostering the achievement of excellence in study in the fields of technical and further education as the Director, with the written approval of the Minister, determines or the Minister requires;
- (b) to provide courses and programs, and to use the facilities and resources of the Institute, to advance and develop knowledge and skill in the fields of technical and further education;

- (c) to support industry and commerce, and to assist the development of industry and commerce and the community, in the Territory;
- (d) to promote the development of community awareness and appreciation of technical and further education;
- (e) to confer awards;
- (f) to consult and co-operate with other institutions, and with persons, associations, organisations and authorities, in relation to the provision of education in technical and further education;
- (g) to make suitable financial arrangements with industry and commerce for the purposes of any of the foregoing; and
- (h) to do anything incidental to any of the foregoing.

(2) The functions referred to in paragraphs (1) (b), (c), (f) and (g), and anything incidental to those functions, may be performed within or outside Australia.

(3) The Institute shall perform its functions in accordance with any directions given by the Minister.

(3A) For the purposes of this section—

- (a) a determination by the Director, or a requirement by the Minister, under paragraph (1) (a); and
- (b) a direction given by the Minister under subsection (3);

shall be in writing.

(4) Where the Minister gives a direction under subsection (3), the direction shall be notified in the *Gazette* and the Minister shall cause a copy of the direction to be laid before the Legislative Assembly within 15 sitting days after the direction is given.

Powers of Institute

7. (1) The Institute has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and, in particular, may—

- (a) subject to subsection (2), enter into contracts;
- (b) erect buildings and structures and carry out works;
- (c) occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Institute;

- (d) accept gifts, grants, devises and bequests made to the Institute, whether on trust or otherwise, and act as trustee of moneys or other property vested in the Institute upon trust;
- (e) provide scholarships and other like benefits;
- (f) make charges for work done, and services rendered, by it;
- (g) engage consultants;
- (h) provide consultative services, including such services to the Territory or Commonwealth;
- (j) form, and participate in the formation of, companies;
- (k) enter into partnership;
- (l) participate in joint ventures;
- (m) provide services, facilities or resources to any company it has formed or participated in the formation of, any partnership it has entered into or any joint venture it has participated in;
- (n) appoint agents and attorneys and act as an agent for other persons;
- (p) obtain commercial sponsorship for the Institute;
- (q) establish residential facilities either by itself or in association with other bodies;
- (r) establish and maintain museum, art, library and other collections either by itself or in association with other bodies; and
- (s) do anything incidental to any of its powers.

(2) The Institute shall not enter into a contract for the expenditure of an amount exceeding \$100,000—

- (a) without the written approval of the Minister; and
- (b) unless the contract is in writing.

(3) The powers of the Institute may be exercised within or outside Australia.

(4) The purpose of the exercise of the powers under paragraphs (1) (j), (k) and (l) shall be to raise profits to be applied exclusively for the use of the Institute.

Limitations on formation of companies etc.

8. (1) The Institute shall not, without the written approval of the Minister—

- (a) subscribe for or purchase shares in, or debentures or other securities of, a company; or
 - (b) form, or participate in the formation of, a company that would, upon its formation, be a subsidiary of the Institute.
- (2) An approval under subsection (1)—
- (a) may be of general application or may relate to a particular company or proposed company; and
 - (b) may be given subject to specified conditions and restrictions.
- (3) Subject to subsection (4), where the Institute subscribes for or purchases shares in, or debentures or other securities of, a company or where the Institute participates in, forms or is interested in a company, the Minister shall—
- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the subscription or purchase or the participation, formation or interest; and
 - (b) cause a copy of the statement to be laid before the Legislative Assembly within 15 sitting days after—
 - (i) subject to subparagraph (ii), the subscription or purchase or the participation, formation or interest takes place; or
 - (ii) if the Minister is of the opinion that the disclosure of the subscription or purchase or the participation, formation or interest would adversely affect the commercial interests of the Institute, the Minister ceases to be of that opinion.
- (4) Where the Institute holds a controlling interest in a company, the Institute shall endeavour to ensure that the audit arrangements for the company are acceptable to the auditors of the Institute and that the company does not do anything that the Institute itself is not empowered to do.
- (5) Without limiting the generality of subsection (4), the Institute shall endeavour to ensure that a company in which it holds a controlling interest does not—
- (a) borrow money otherwise than from the Territory or Commonwealth; or
 - (b) raise money otherwise than by borrowing;
- except—
- (c) with the written approval of the Minister for the time being administering the *Audit Act 1989*; and

- (d) on terms and conditions that are specified in, or consistent with, the approval.

(6) Subsection (5) applies to a borrowing or raising of money whether the money is borrowed or raised by dealing in securities or otherwise, and whether or not the money is borrowed or raised, in whole or in part, in a currency other than Australian currency.

(7) An approval may be given under subsection (5) in relation to a particular transaction or class of transactions.

- (8) For the purposes of subsection (5)—

- (a) the issue by a company of an instrument acknowledging a debt in consideration of the payment or deposit of money or of the provision of credit; or
- (b) the obtaining of credit by the company;

shall, to the extent of the amount of that money or of that credit, as the case may be, be deemed to be a borrowing by that company.

(9) Paragraph 5 (b) does not apply to a raising of money where that money is raised by way of donation or gift or by bona fide payment for services rendered.

Limitations of formation of partnerships

9. (1) The Institute shall not, without the written approval of the Minister, enter into partnership with another person.

- (2) An approval under subsection (1)—

- (a) may be of general application or may relate to a particular person or proposed partnership; or
- (b) may be given subject to specified conditions and restrictions.

(3) Subject to subsection (4), where the Institute enters into partnership with another person, the Minister shall—

- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the partnership; and
- (b) cause a copy of the statement to be laid before the Legislative Assembly within 15 sitting days after—
 - (i) subject to subparagraph (ii), the partnership is entered into; or
 - (ii) if the Minister is of the opinion that the disclosure of the partnership would adversely affect the commercial interests of the Institute, the Minister ceases to be of that opinion.

(4) Where the Institute is able to control the things done by a partnership of which it is a member, the Institute shall endeavour to ensure that the audit arrangements for the partnership are acceptable to the auditors of the Institute and that the partnership does not do anything that the Institute itself is not empowered to do.

Limitations on participation in joint ventures

10. (1) The Institute shall not, without the written approval of the Minister, participate in a joint venture.

(2) An approval under subsection (1)—

(a) may be of general application or may relate to a particular proposed joint venture; or

(b) may be given subject to specified conditions and restrictions.

(3) Subject to subsection (4), where the Institute enters into an agreement for a joint venture, the Minister shall—

(a) cause to be prepared a statement setting out particulars of, and the reasons for, the joint venture; and

(b) cause a copy of the statement to be laid before the Legislative Assembly within 15 sitting days after—

(i) subject to subparagraph (ii), the agreement is entered into; or

(ii) if the Minister is of the opinion that the disclosure of the joint venture would adversely affect the commercial interests of the Institute, the Minister ceases to be of that opinion.

(4) Where the Institute is able to control the things done by a joint venture of which it is a participant, the Institute shall endeavour to ensure that the audit arrangements for the joint venture are acceptable to the auditors of the Institute and that the joint venture does not do anything that the Institute itself is not empowered to do.

Review of opinions

10A. The Minister shall, in relation to an opinion referred to in subparagraph 8 (3) (b) (ii), 9 (3) (b) (ii) or 10 (3) (b) (ii), within 12 months after the date on which the Minister—

(a) formed that opinion; or

(b) last decided that he or she remained of that opinion;

decide whether he or she remains of that opinion.

PART III—DIRECTOR, COMMITTEE AND STAFF OF INSTITUTE

Director

11. (1) There shall be a Director of the Institute who shall be appointed in writing by the Minister.

(2) A person who has attained the age of 65 years shall not be appointed as Director, and a person shall not be appointed as Director for a period that extends beyond the day on which the person will attain the age of 65 years.

(3) The appointment of a person as Director shall be on a full-time basis for a specified period not exceeding 5 years.

(4) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined in writing by the Minister.

Functions of Director

12. (1) The Director shall manage the affairs of the Institute.

(1A) In managing the affairs of the Institute, the Director shall have regard to any advice given by the Committee.

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

Powers of Director

13. (1) The Director has the power to do all things that are necessary or convenient to be done for or in connection with the performance of the Director's functions and, in particular, may make administrative arrangements or give directions to a member of staff or to a student with respect to the following matters—

- (a)** the management, good government and discipline of the Institute;
- (b)** the custody and use of the common seal;
- (c)** the persons who are to constitute the teaching staff of the Institute for the purposes of this Act;
- (d)** the persons who are to constitute the non-teaching staff of the Institute for the purposes of this Act;
- (e)** the persons who are to constitute the students of the Institute for the purposes of this Act;
- (f)** the provision of superannuation or similar benefits for, or in respect of, staff;

- (g) the admission of persons to courses of study or instruction of the Institute or to examinations of the Institute;
- (h) the awards (including honorary awards) that may be conferred by the Institute and the requirements for their conferral;
- (j) the granting by the Institute of scholarships, bursaries and prizes;
- (k) the review of progress of students;
- (l) the provision of loans to any student;
- (m) the provision and management of, and fees or other charges payable for, the use of amenities and services;
- (n) the association or affiliation with the Institute of any authority, corporation, institution, body or person; or
- (p) any other matter authorised by this Act or necessary or convenient for giving effect to this Act.

(2) Subject to the *Audit Act 1901* of the Commonwealth and any regulations made under that Act, the Director has the power to issue financial and accounting directions to a member of staff.

(3) The Director may, if a student contravenes a direction given in relation to a matter referred to in paragraph 13 (1) (a), preclude the student for a specified period from—

- (a) using any of the facilities provided by the Institute; or
- (b) attending a course, or any part of a course, of study or instruction.

(4) Nothing in subsection (1) shall be taken to empower the Director to impose sanctions for the contravention of directions given under subsection 13 (1) other than sanctions of the kind specified in subsection (3).

Remuneration and allowances

14. (1) The Director shall be paid—

- (a) such remuneration as is determined by the Remuneration Tribunal; and
- (b) such allowances as are prescribed.

(2) This section has effect subject to the *Remuneration Tribunals Act 1973* of the Commonwealth.

Leave of absence

15. The Minister may grant leave of absence to the Director on such terms and conditions as to remuneration or otherwise as are determined in writing by the Minister.

Resignation

16. The Director may resign by delivering to the Minister a signed notice of resignation.

Termination of appointment

16A. (1) The Minister may terminate the appointment of the Director for misbehaviour or physical or mental incapacity.

(2) The Minister shall terminate the appointment of the Director if the Director—

- (a)** becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b)** is absent from duty, except on leave granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months; or
- (c)** is convicted in the Territory or in a State or another Territory of an offence punishable on conviction by imprisonment for 1 year or more.

Acting Director

17. (1) The Minister may 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
- (b)** during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office of Director;

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

(2) An appointment under subsection (1) may be expressed to have effect only in such circumstances as are specified by the Minister.

(3) The Minister may—

- (a)** determine the terms and conditions of appointment (including remuneration and allowances) of a person acting as Director; and
- (b)** terminate such an appointment at any time.

(4) Subject to subsection (2), if the office of Director becomes vacant while a person is acting under paragraph (1) (b), the person may continue to act until—

- (a)** the Minister otherwise directs;

- (b) the vacancy is filled; or
- (c) a period of 12 months from the occurrence of the vacancy expires;

whichever first happens.

(4A) For the purposes of this section—

- (a) an appointment under subsection (1);
- (b) a determination of the terms and conditions of appointment, or the termination of an appointment, under subsection (3); and
- (c) a direction under paragraph (4) (a);

shall be in writing.

(5) A person may resign an appointment under this section by delivering to the Minister a signed notice of resignation.

(6) While a person is acting under this section, the person has all the powers, and shall perform all the functions, of the Director.

(7) An act done by or in relation to a person purporting to act under this section is not invalid only because—

- (a) the occasion for the person's appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Establishment of Committee

18. There is established by this section a committee by the name of the A.C.T. Institute of Technical and Further Education Advisory Committee.

Function and powers of Committee

18A. (1) The function of the Committee is to advise the Director with respect to matters relating to the functions of the Institute and, in particular, in relation to—

- (a) the educational policies to be implemented in the Institute;
- (b) the welfare of students at the Institute and the management of the Institute;
- (c) the development of relationships between the Institute and the community; and

- (d) the planning and programming of educational services to be provided by the Institute and the financial policies for the Institute.
- (2) Advice given by the Committee shall be in writing.
- (3) The Committee may report in writing to the Minister on any matter relating to the functions of the Institute.
- (4) The Committee has power to do all things necessary or convenient to be done in connection with the performance of its function.

Membership of Committee

- 18B. (1)** The Committee shall consist of—
- (a) the Chairperson;
 - (b) the Deputy Chairperson; and
 - (c) 5 other members.
- (2)** Of the members referred to in paragraph (1) (c)—
- (a) 1 shall be a representative of an organisation which represents the teaching staff;
 - (b) 1 shall be a representative of the student body; and
 - (c) 1 shall be a representative of industry and commerce.
- (3)** The Director shall not be appointed as a member.
- (4)** A member of staff shall not be appointed as the Chairperson or the Deputy Chairperson.
- (5)** The members shall be appointed in writing by the Minister.
- (6)** Subject to this Act, a member holds office for the period, not exceeding 3 years, and on the terms and conditions, specified in the instrument of appointment.

Resignation

- 18C.** A member may resign in writing signed by the member and delivered to the Minister.

Termination of appointment

- 18D. (1)** The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.
- (2)** The Minister shall terminate the appointment of a member if—
- (a) the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds

with his or her creditors or makes an assignment of his or her remuneration for their benefit;

- (b) the member is absent, without advising the Minister or the Chairperson of the reason for his or her absence, from 3 consecutive meetings of the Committee;
- (c) the member is convicted in the Territory or in a State or another Territory of an offence punishable on conviction by imprisonment for 1 year or more;
- (d) in the case of a member of the kind referred to in paragraph 18B (2) (a), (b) or (c)—the Minister has reasonable grounds for believing that the member has ceased to be a person of that kind; or
- (e) the member fails, without reasonable excuse, to comply with section 18G.

Acting members

18E. (1) The Minister may, in writing, appoint a person to act in the office of Chairperson, of Deputy Chairperson, or of another member—

- (a) during a vacancy in the office, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the holder of the office is absent from the Territory or is, for any other reason, unable to perform the functions of the office;

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

(2) A person shall not be appointed to act as a member of the kind referred to in paragraph 18B (2) (a), (b) or (c) unless the person is a person of that kind.

(3) The Director shall not be appointed to act as a member.

(4) A member of staff shall not be appointed to act as the Chairperson or the Deputy Chairperson.

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

- (a) the occasion for the appointment had not arisen;
- (b) there is a defect or irregularity in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Meetings

18F. (1) The Committee shall hold at least 6 meetings in each year, but so that a period of not more than 3 months elapses between each meeting.

(2) The Chairperson—

- (a)** may convene a meeting at any time; and
- (b)** shall convene a meeting on receipt of a written request signed by—
 - (i)** the Minister; or
 - (ii)** at least 3 members.

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

(4) The Chairperson shall preside at all meetings at which he or she is present.

(5) If the Chairperson is absent from a meeting, the Deputy Chairperson shall preside.

(6) If the Chairperson and the Deputy Chairperson are absent from a meeting, the members present shall elect 1 of their number to preside.

(7) The Committee shall keep a record of its proceedings.

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

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

Disclosure of interests

18G. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a Committee meeting.

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

- (a)** be present during any deliberation of the Committee with respect to that matter; or
- (b)** take part in any decision of the Committee with respect to that matter.

(3) A member referred to in subsection (2) shall not—

- (a) be present during any deliberation of the Committee 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 Committee of such a determination.

Staff

19. (1) The staff of the Institute shall consist of—

- (a) such persons employed by the Director, on behalf of the Institute, as the Director thinks necessary for the purposes of this Act; and
- (b) persons made available to the Institute under the *Teaching Service Act 1972*.

(2) Paragraph (1) (b) shall cease to have effect on such date as is fixed by the Minister by notice in the *Gazette*.

PART IV—FINANCE

Money to be appropriated by Parliament

20. (1) There is payable to the Institute such money as is appropriated by the Legislative Assembly for the purposes of the Institute.

(2) The Minister may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Institute.

(3) A direction shall be in writing.

Fees

21. (1) There is payable to the Institute such fees for attendance at courses and programs as the Minister may determine by notice in the *Gazette*.

(2) The Director may make a determination in relation to—

- (a) fees the payment of which is voluntary;
- (b) fees in respect of the provision of an administrative service;
- (c) fees in respect of the provision to students of amenities or services not of an academic nature;
- (d) fees in respect of an organisation of students or of students and other persons; or
- (e) fees in respect of residential accommodation.

(3) A fee is not payable by a person or class of persons exempted from payment of the fee by a determination of the Minister under subsection (1) or the Director under subsection (2).

Estimates

22. (1) The Institute shall—

- (a) prepare estimates of the receipts and expenditure of the Institute in such form as the Minister, in writing, directs for—
 - (i) each calendar year; and
 - (ii) any other period specified by the Minister; and
- (b) lodge estimates with the Minister within such time as the Minister, in writing, directs.

(2) Estimates under subsection (1) shall not include estimates of receipts or expenditure of trust money.

Money of Institute

23. The money of the Institute consists of—

- (a) money paid to the Institute under section 20; and
- (b) any other money, other than trust money, paid to the Institute.

Application of money

24. (1) The money of the Institute shall be applied only—

- (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Institute in the performance of its functions and the exercise of its powers;
- (b) in payment of any remuneration or allowance payable to any person under this Act; and
- (c) in making any other payments required or permitted to be made by the Institute.

(2) The money of the Institute, other than trust money, shall be expended only in accordance with estimates approved in writing by the Minister.

(3) Money of the Institute not immediately required for the purposes of the Institute may be invested—

- (a) on deposit with the Reserve Bank of Australia or any other bank approved in writing by the Minister for the time being administering the *Audit Act 1989*;

- (b) in securities of the Territory or Commonwealth;
- (c) on loan to an authorised dealer;
- (d) in clean bills of exchange; or
- (e) in any other manner approved in writing by the Minister for the time being administering the *Audit Act 1989*.

(4) In subsection (3)—

“authorised dealer” means a corporation that is an authorised dealer in the short-term money market as defined by subregulation 5 (1) of the Banking (Savings Banks) Regulations as amended and in force from time to time under the *Banking Act 1959* of the Commonwealth;

“clean bill of exchange” means a bill of exchange that—

- (a) has been accepted by a trading bank;
- (b) has been indorsed by a trading bank or trading banks; and
- (c) has not been indorsed by any person other than a trading bank.

Borrowings

25. (1) The Institute may borrow money subject to Part VII of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

(2) In subsection (1), “borrow” has the same meaning as in the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

Security

28. The Institute may give security over the whole or any part of its assets for—

- (a) the payment of money borrowed;
- (b) the payment of any money (without interest) that the Institute is liable to pay in respect of those borrowings; and
- (c) the payment of money (including interest) that the Institute is liable to pay in respect of dealings with securities.

Trust money and trust property

30. The Institute—

- (a) shall pay trust money into an account or accounts referred to in subsection 63J (1) of the *Audit Act 1901* of the Commonwealth (as that subsection applies to the Institute) containing no money other than trust money;
- (b) shall apply or deal with trust money and trust property only in accordance with the powers and duties of the Institute as trustee; and
- (c) may only invest trust money—
 - (i) in a manner in which the Institute is authorised to invest the money by the terms of the trust; or
 - (ii) in a manner in which trust money may be lawfully invested.

Exemption from taxation

31. (1) Subject to subsection (2), the income, property and transactions of the Institute are not subject to taxation under any law of a State or Territory.

(2) The regulations may provide that subsection (1) does not apply in relation to taxation under a specified law.

Audit Act to apply

31A. (1) For the purposes of subsection 87 (2) of the *Audit Act 1989*, the Institute is declared to be a public authority to which Divisions 1 and 3 of Part IX of that Act apply.

(2) For the purposes of this Part, in sections 95 and 96 of the *Audit Act 1989*—

- (a) a reference to moneys includes a reference to trust moneys;
- (b) a reference to transactions and affairs includes a reference to transactions and affairs relating to trust moneys or trust property; and
- (c) a reference to assets includes a reference to trust property.

Financial reporting and audit

31B. (1) The first period of reporting of the Institute under section 97 of the *Audit Act 1989* commences on 11 May 1989 and ends at the expiration of 31 December 1989.

(2) Subsection 97 (1) of the *Audit Act 1989* has effect in respect of its operation in relation to the Institute as if, for “30 June”, there were substituted “31 December”.

(3) Subsection 97 (4) of the *Audit Act 1989* has effect in respect of its operation in relation to the Institute as if, for "30 June 1990", there were substituted "31 December 1990".

(4) The Institute shall, within 1 month after the day on which this section commences, submit to the Minister, for presentation to the Legislative Assembly, an audited financial statement of its operations for the period commencing on 1 January 1989 and ending at the expiration of 10 May 1989.

(5) The Institute shall include in reports of its operations, submitted in accordance with section 97 of the *Audit Act 1989*, details of any direction given under subsection 6 (3), and the number of approvals given under each of subsections 8 (1), 9 (1) and 10 (1), in respect of which approvals the Minister has not caused a copy of a statement to be laid before the Legislative Assembly.

PART V—MISCELLANEOUS

Delegation by Director

32. (1) The Director may, either generally or as otherwise provided by the instrument of delegation, by instrument in writing delegate to any person all or any of the Director's powers and functions under this Act, other than this power of delegation.

(2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Director.

(3) A delegation does not prevent the exercise of a power or performance of a function by the Director.

Notification of decisions

33. (1) Where the Director makes a decision—

- (a) not to admit a person to a course of study or instruction of the Institute or to an examination of the Institute under paragraph 13 (1) (g);
- (b) not to confer an award (not including an honorary award) on a person under paragraph 13 (1) (h); or
- (c) precluding a student from using facilities or attending a course, or part of a course, under subsection 13 (3);

he or she shall, within 28 days of the date of the decision, cause notice to be given to the persons whose interests are affected by the decision, setting out the decision and giving reasons for the decision.

(2) A notice under subsection (1) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Australian Capital Territory Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

(3) The validity of a decision to which a notice under subsection (1) relates shall not be taken to be affected by a failure to comply with subsection (2).

Review by Administrative Appeals Tribunal

34. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Director—

- (a) refusing to admit a person to a course of study or instruction of the Institute or to an examination of the Institute under paragraph 13 (1) (g);
- (b) refusing to confer an award (not including an honorary award) on a person under paragraph 13 (1) (h) or;
- (c) precluding a student from using facilities or attending a course, or part of a course, under subsection 13 (3).

Regulations

35. (1) The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed by regulations; or
- (b) necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), regulations made under that subsection may make provisions for and in relation to—

- (a) the use or parking of vehicles on land occupied by the Institute in the Territory, including the authorisation of, and the provision for the effect of, signs and marking; or
- (b) the punishment, on summary conviction, by a fine not exceeding \$50, of offences against a regulation made under paragraph (a).

NOTE

1. The *A.C.T. Institute of Technical and Further Education Act 1987* as shown in this reprint comprises Act No. 71, 1987 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

Table of Ordinances

Ordinance	Number and year	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions
<i>A.C.T. Institute of Technical and Further Education Ordinance 1987</i>	71, 1987	22 Dec 1987	4 Jan 1987 (see <i>Gazette</i> 1987, No. S365)	
<i>A.C.T. Institute of Technical and Further Education (Amendment) Ordinance 1988</i>	82, 1988	21 Dec 1988	21 Dec 1988	—
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	38, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—

Self-Government day 11 May 1989

Table 2

Table of Acts

Act	Number and year	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions
<i>Statutory Authorities (Audit Arrangements) Act 1990</i>	25, 1990	22 June 1990	Ss. 1 and 2: 22 June 1990 Remainder: 22 June 1990 (see <i>Gazette</i> 1990, No. S35)	Ss. 19 and 20

NOTE—continued

Table of Amendments

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

Provision	How affected
S. 3.....	am. No. 82, 1988
S. 5.....	am. No. 82, 1988
Ss. 6, 7.....	am. No. 82, 1988; No. 38, 1989
Ss. 8-10.....	am. No. 38, 1989
S. 10A.....	ad. No. 82, 1988
Heading to Part III.....	am. No. 82, 1988
Ss. 11-13.....	am. No. 82, 1988
S. 15.....	am. No. 82, 1988
S. 16A.....	ad. No. 82, 1988
S. 17.....	am. No. 82, 1988
S.18.....	rs.No. 82, 1988
Ss. 18A-18G.....	ad. No. 82, 1988
S.19.....	am. No. 38, 1989
S. 20.....	am. No. 82, 1988; No. 38, 1989
S. 22.....	am. No. 82, 1988
S. 24.....	am. No. 82, 1988; No. 38, 1989
S. 25.....	rs. No. 38, 1989
Ss. 26, 27.....	rep. No. 38, 1989
S. 28.....	am. No. 38, 1989
S. 29.....	rep. No. 38, 1989
Ss. 31A, 31B.....	ad. Act No. 25, 1990
S. 33.....	am. No. 82, 1988; No. 38, 1989
S. 34.....	am. No. 82, 1988
S. 35.....	am. No. 82, 1988; No. 38, 1989

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