

AUSTRALIAN CAPITAL TERRITORY

A.C.T. Institute of Technical and Further Education (Amendment) Ordinance 1988

No. 82 of 1988

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 7 December 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts
and Territories

An Ordinance to amend the *A.C.T. Institute of Technical and Further Education Ordinance 1987*

Short title

1. This Ordinance may be cited as the *A.C.T. Institute of Technical and Further Education (Amendment) Ordinance 1988*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *A.C.T. Institute of Technical and Further Education Ordinance 1987*.²

Interpretation

(Ord. 61/88)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

3. Section 3 of the Principal Ordinance is amended by inserting in subsection (1) the following definitions:

“ ‘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;

‘member’ means a member of the Committee;”

Constitution of Institute

4. Section 5 of the Principal Ordinance is amended—

(a) by inserting in subsection (2) “written” before “approval”; and

(b) by adding at the end the following subsection:

“(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

5. Section 6 of the Principal Ordinance is amended—

(a) by inserting in paragraph (1) (a) “written” before “approval”; and

(b) by inserting after subsection (3) the following subsection:

“(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.”.

Powers of Institute

6. Section 7 of the Principal Ordinance is amended by omitting subsection (2) and substituting the following subsection:

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“(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.”.

Insertion

7. After section 10 of the Principal Ordinance the following section is inserted in Part II:

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.”.

Heading to Part III

8. The heading to Part III of the Principal Ordinance is amended by omitting “COMMITTEES” and substituting “COMMITTEE”.

Director

9. Section 11 of the Principal Ordinance is amended—

- (a) by inserting in subsection (1) “in writing” after “appointed”; and
- (b) by inserting in subsection (4) “in writing” after “determined”.

Functions of Director

10. Section 12 of the Principal Ordinance is amended by inserting after subsection (1) the following subsection:

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

Powers of Director

11. Section 13 of the Principal Ordinance is amended by adding at the end the following subsections:

“(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).”.

Leave of absence

12. Section 15 of the Principal Ordinance is amended by inserting “in writing” after “determined”.

Insertion

13. After section 16 of the Principal Ordinance the following section is inserted:

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

14. Section 17 of the Principal Ordinance is amended by inserting after subsection (4) the following subsection:

“(4A) For the purposes of this section—

- (a) an appointment under subsection (1);

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- (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.”.

Substitution

15. Section 18 of the Principal Ordinance is repealed and the following sections are substituted:

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. 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 Ordinance, 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;

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- (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.

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“(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.

Money to be appropriated by Parliament

16. Section 20 of the Principal Ordinance is amended by adding at the end the following subsection:

“(3) A direction shall be in writing.”.

Estimates

17. Section 22 of the Principal Ordinance is amended—

- (a) by inserting in paragraph (1) (a) “, in writing,” after “Minister” (first occurring); and
- (b) by inserting in paragraph (1) (b) “, in writing,” after “Minister” (last occurring).

Application of money

18. Section 24 of the Principal Ordinance is amended—

- (a) by inserting in subsection (2) “in writing” after “approved”; and
- (b) by inserting in paragraphs (3) (a) and (e) “in writing” after “approved”.

Notification of decisions

19. Section 33 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (a) “or” (last occurring); and
- (b) by inserting after paragraph (1) (b) the following word and paragraph:
 - “or; (c) precluding a student from using facilities or attending a course, or part of a course, under subsection 13 (3).”.

Review of decisions

20. Section 34 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) “or” (last occurring); and
- (b) by inserting after paragraph (b) the following word and paragraph:
 - “or; (c) precluding a student from using facilities or attending a course, or part of a course, under subsection 13 (3).”.

Regulations

21. Section 35 of the Principal Ordinance is amended—

- (a) by omitting from subsection (1) “Governor-General” and substituting “Minister”;
- (b) by adding at the end of paragraph (2) (a) “or”;

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- (c) by omitting from paragraph (2) (b) “or”; and
- (d) by omitting paragraph (2) (c).

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 21 December 1988.
2. No. 71, 1987.