

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

ACT INSTITUTE OF TECHNICAL AND FURTHER EDUCATION ORDINANCE 1987

No. 71 of 1987

The ACT Institute of Technical and Further Education Ordinance 1987 ("the Ordinance") establishes the ACT Institute of Technical and Further Education as an independent authority to provide technical and further education in the ACT. The effect of each provision of the Ordinance is set out in the attachment.

**ISSUED BY AUTHORITY OF THE
MINISTER OF STATE FOR THE ARTS,
SPORT, THE ENVIRONMENT, TOURISM
AND TERRITORIES**

ACT INSTITUTE OF TECHNICAL AND FURTHER EDUCATION ORDINANCE 1987

Part I - Preliminary

Section 1 cites the short title of the Ordinance as the ACT Institute of Technical and Further Education Ordinance 1987.

Section 2 provides that the Ordinance shall come into an operation on a date fixed by the Minister by notice in the Gazette.

Section 3 provides for interpretation.

Part II - ACT Institute of Technical and Further Education

Section 4 provides for the establishment of the ACT Institute of Technical and Further Education (the Institute) as a body corporate.

Section 5 provides that the Institute is to consist of the Canberra College of Technical and Further Education, the Bruce College of Technical and Further Education, the Woden College of Technical and Further Education and any other department, institution or authority declared by the Minister to be a part of the Institute at the commencement of the Ordinance; as well as any other fields of Technical and Further Education that the Director, with the Minister's approval, determines.

Section 6 provides for the functions of the Institute.

Subsection 6(1) lists the following functions:

- (a) to conduct Technical and Further Education in the ACT;
- (b) to provide courses and programs and to use its facilities to advance and develop knowledge;
- (c) to support ACT industry and commerce and the community;
- (d) to promote the development of community awareness;
- (e) to confer awards;
- (f) to co-operate with other institutions, persons and bodies;
- (g) to make financial arrangements with Industry and Commerce; and
- (h) to do anything incidental to its functions.

Subsection 6(2) provides for functions to be exercised within or outside Australia.

Subsection 6(3) provides for the Minister to be able to issue directions to the Institute.

Subsection 6(4) provides for gazettal and tabling of Ministerial directions.

Section 7 provides for the powers of the Institute.

Subsection 7(1) lists the powers of the Institute as follows:

- (a) to enter into contracts;
- (b) to build;
- (c) to occupy, use and control any Commonwealth land made available to it;
- (d) to accept gifts, grants, devises and to requests;
- (e) to provide scholarships;
- (f) to make charges for work;
- (g) to engage consultants;
- (h) to provide consultative services;
- (j) to participate in companies;
- (k) to enter into partnerships;
- (l) to participate into joint ventures;
- (m) to provide services facilities or resources to a company in which it is a participant;
- (n) to appoint agents and attorneys;
- (p) to obtain commercial sponsorship;
- (q) to establish residential facilities;
- (r) to establish and maintain museum, art, library and other collections; and
- (s) to do anything incidental to the above.

Subsection 7(2) provides a limit of \$100,000.00 on the value of a contract into which the Institute may enter without ministerial consent.

Subsection 7(3) provides for the exercise of the powers of the Institute within or outside Australia.

Subsection 7(4) limits the business activities of the Institute to raising profits for the use of the Institute.

Section 8 provides for limitations on the formation of the companies.

Subsection 8(1) requires ministerial approval for the Institute to join a company.

Subsection 8(2) provides for the form of ministerial approval.

Subsection 8(3) provides for the Minister to table particulars of the Institute's participation in a company.

Subsection 8(4) provides for the Institute to ensure that audit arrangements for a company in which it participates are acceptable to its own auditors. Under the Audit Regulations the auditors of the Institute will be the Auditor-General.

Subsection 8(5) provides for the Institute to exert control over a company in which it holds a controlling interest and prevent it engaging in unauthorised borrowing activity.

Subsection 8(6) provides that subsection (5) relates to all borrowing activities.

Subsection 8(7) provides for approval of borrowing activities.

Subsection 8(8) provides for certain transactions to be deemed to be borrowing.

Section 9 provides for limitations on the formation of the partnerships by the Institute.

Subsection 9(1) requires the approval of the Minister for entry into partnerships.

Subsection 9(2) provides for the form of the Minister's approval.

Subsection 9(3) provides for the tabling by the Minister of a statement relating to entry into a partnership.

Subsection 9(4) provides that the Institute is to endeavour to ensure that the audit arrangements for a partnership are acceptable to the auditors of the Institute.

Section 10 provides for limitations on participation in joint ventures.

Subsections 10(1) and (2) require the Minister's approval to the entry into a joint venture.

Subsection 10(3) provides for tabling of a statement in Parliament where the Institute enters into a joint venture.

Subsection 10(4) provides for the Institute to endeavour to ensure that the audit arrangements for a joint venture are acceptable to the auditors of the Institute.

Part III - Director, Committees and Staff of the Institute

Section 11 provides for the appointment of the Director of the Institute.

Subsections 11(1)-(3) provide that the Director is to be appointed by the Minister, is to be under 65 years of age and a full time official.

Subsection 11(4) provides that the Director holds office on such terms and conditions as are determined by the Minister.

Section 12 provides for the functions of the Director.

Subsection 12(1) provides that the Director is to manage to affairs of the Institute.

Subsection 12(2) provides that anything done on behalf of the Institute by the Director is deemed to have been done by the Institute.

Section 13 provides for the powers of the Director.

Subsection 13(1) provides that the Director has power to do all things necessary or convenient to be done in connection with his or her duties and may make administrative arrangements or give directions to a member of the staff or to a student in respect of the following matters.

- (a) management, good government and discipline of the Institute;
- (b) the custody and use of the common seal;
- (c) persons who are to constitute teaching staff of the Institute;
- (d) the persons who are to constitute the non-teaching staff of the Institute;

- (e) the persons who are to constitute the students of the Institute;
- (f) the provision of superannuation benefits;
- (g) admission of persons to courses of study or instruction of the Institute or to examinations;
- (h) the awards that may be conferred;
- (j) the granting of scholarships;
- (k) the review of progress of students;
- (l) the provisions of loans to any student;
- (m) 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 other body; and
- (p) any other matter authorised by the Ordinance or necessary or convenient for giving effect to it.

Subsection 13(2) allows the Director to issue financial and accounting directions to a member of the staff.

Section 14 relates to remuneration of the Director and provides that he or she is to receive remuneration as is determined by the Remuneration Tribunal and such allowances as are prescribed.

Section 15 provides for the Minister to grant leave of absence to the Director.

Section 16 provides for the Director to be able to resign.

Section 17 provides for the appointment of an acting Director.

Subsection 17(1) provides for the Minister to appoint an acting Director during a vacancy in the office or when the Director is absent.

Subsection 17(2) provides that such an appointment may be expressed to have effect only in circumstances specified by the Minister.

Subsection 17(3) provides for the Minister to determine terms and conditions of an acting appointment and to terminate such an acting appointment at any time.

Subsection 17(4) provides that if the office becomes vacant while a person is acting during the absence of the Director the person may continue until the Minister terminates the arrangement, the vacancy is filled or 12 months has elapsed from the occurrence of the vacancy.

Subsection 17(5) provides for an acting Director to be able to resign.

Subsection 17(6) provides that an acting Director has all the powers and functions of the Director.

Subsection 17(7) provides that an irregularity in the appointment of an acting Director shall not invalidate the performance of his or her functions.

Section 18 provides for the Director to appoint a Committee of not more than 5 members to provide advice and assistance in the performance of his or her functions.

Section 19 provides for Staff of the Institute.

Subsection 19(1) provides for the staff of the Institute to consist of such persons employed by the Director on behalf of the Institute as he or she thinks necessary and persons made available to the Institute under the Commonwealth Teaching Service Act.

Subsection 19(2) provides for the provision, relating to Commonwealth Teaching Service Act staff, to cease to have effect on notification by the Minister in the gazette.

Part IV - Finance

Section 20 provides for the Institute to receive money appropriated by the Parliament for its purposes and for the Minister for Finance to give directions regarding the payment of the money to the Institute.

Section 21 relates to fees.

Subsection 21(1) provides for the Minister to determine fees for the Institute.

Subsection 21(2) provides for the Director to make a determination in relation to the following specified fees:

- (a) voluntary fees,
- (b) administrative fees,
- (c) fees for the provision of amenities or services which are not of an academic nature,

(d) fees in respect of student organisations;

(e) fees in respect of residential accommodation.

Subsection 21(3) provides for the Minister or the Director to exempt persons or classes of persons from the payment of fees.

Section 22 requires the Institute to prepare estimates for each calendar year and lodge the estimates with the Minister.

Section 23 relates to the money of the Institute which is to consist of money paid to the Institute under section 20 and any other money, other than trust money, paid to the Institute.

Section 24 limits the application of money of the Institute.

Subsection 24(1) provides for the money of the Institute to be applied only in payment of expenses, charges, obligations and liabilities incurred by the Institute in the performance of its functions and the exercise of its powers or in payment of remuneration or allowance payable to persons in accordance with the Ordinance or in making other payments required or permitted to be made by the Institute.

Subsection 24(2) provides for the money to be expended only in accordance with estimates approved by the Minister.

Section 24(3) provides for the investment of moneys of the Institute;

(a) on deposit with a bank;

(b) in securities of the Commonwealth;

(c) on loan to an authorised dealer;

(d) in clean bills of exchange; or

(e) in a manner approved by the Treasurer.

Subsection 24(4) is an interpretation provision.

Section 25 provides for the Commonwealth to lend money to the Institute.

Section 26 provides that the Institute may borrow money otherwise than from the Commonwealth, with the approval of the Treasurer.

Section 27 relates to dealings with securities.

Subsection 27(1) provides the Institute to deal with securities with the approval of the Treasurer.

Subsection 27(2) provides for the Treasurer's approval to be in writing.

Subsection 27(3) is an interpretation provision.

Section 28 permits the Institute to give securities over its assets.

Section 29 forbids the Institute to borrow or raise money except in accordance with clauses 25, 26 and 27.

Section 30 requires the Institute to pay trust money into a trust account under the Audit Act and requires the Institute to deal with trust money properly as a trustee and invest trust money only in an authorised manner.

Section 31 exempts the Institute from taxation under any law of the State or Territory and makes provision for regulations which have the effect of applying a State or Territory tax to the Institute.

Part V - Miscellaneous

Section 32 provides for the Director to be able to delegate his powers and functions and provides for a power exercised by a Delegate to have the same effect as if exercised by the Director.

Section 33 provides for notification of appeal rights.

Subsection 33(1) requires the Director to notify a person, who is refused entry to a course of study or instruction or an examination or is refused an award, of his decision within 28 days giving reasons.

Subsection 33(2) requires such a notice to state that there is an appeal to the Administrative Appeal Tribunal and that a statement under section 28 of the Administrative Appeals Tribunal Act may be obtained.

Subsection 33(3) preserves a decision where the notice given does not comply with subclause 40(2).

Section 34 provides an appeal to the Administrative Appeals Tribunal for a review of a decision of the Director refusing to admit a person to a course of study or instruction or examination or refusing to confer an award.

Section 35 gives the Governor-General a power to make regulations including a power to make regulations with respect to the use or parking on vehicles on land occupied by the Institute, the imposition of a fine of \$50 for breach of such a regulation and the imposition of penalties upon members of staff or students who disobey directions given by the Director under section 13.