

Canberra College of Advanced Education

No. 104 of 1967

An Act to establish a College of Advanced Education in the Australian Capital Territory.

[Assented to 14 November 1967]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- Short title.** 1. This Act may be cited as the *Canberra College of Advanced Education Act 1967*.
- Commencement.** 2. This Act shall come into operation on the day on which it receives the Royal Assent.
- Definitions.** 3. In this Act, unless the contrary intention appears—
- “ *ex officio* member ” means a member being the Principal of the College or the Vice-Chancellor;
 - “ member ” means a member of the Council;
 - “ the College ” means the Canberra College of Advanced Education established by this Act;
 - “ the Council ” means The Council of the Canberra College of Advanced Education established under this Act;
 - “ the Deputy Vice-Chancellor ” means the person holding the office of Deputy Vice-Chancellor of the Australian National University;
 - “ the Vice-Chancellor ” means the person holding the office of Vice-Chancellor of the Australian National University.
- Establishment of College.** 4.—(1.) A body corporate is hereby established under the name “ Canberra College of Advanced Education ”.
- (2.) The College—
- (a) shall have a seal;
 - (b) has power to acquire, hold and dispose of real and personal property; and
 - (c) may sue and be sued in its corporate name.

(3.) The design of the seal of the College shall be as determined by the Council.

(4.) The seal of the College shall be kept in such custody as the Council directs and shall not be used except as authorized by the Council.

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

5. The functions of the College are—

Functions
of College.

- (a) to conduct, in the Australian Capital Territory, an institution for the provision of education and training of such kinds, and in such departments of science, technology, art, administration, commerce and other fields of knowledge or of the application of knowledge, as the Council, with the approval of the Minister, determines or as the Minister requires, and, in particular, education and training appropriate to professional and other occupations requiring advanced education;
- (b) to use the facilities and resources of the College to advance and develop knowledge and skills in the fields with which the College is concerned;
- (c) to award diplomas and certificates in relation to the passing of examinations or otherwise in relation to the education and training provided by the College; and
- (d) to do anything incidental or conducive to the performance of the foregoing functions.

6.—(1.) The College has power to do, in the Australian Capital Territory or elsewhere, all things that are necessary or convenient to be done for or in connexion with the performance of its functions.

Powers of
the College.

(2.) Without limiting the generality of the last preceding sub-section, the powers of the College referred to in that sub-section include power—

- (a) to enter into contracts;
- (b) to purchase, take on lease or otherwise acquire, and to sell, grant leases of, or otherwise dispose of, real or personal property;
- (c) to erect buildings;
- (d) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the College;
- (e) to employ such persons as are necessary;

- (f) to accept gifts, devises and bequests made to the College, whether on trust or otherwise, and to act as trustee of moneys or other property vested in the College upon trust; and
- (g) to invest moneys of the College and to dispose of investments.

The Council.

7.—(1.) The governing authority of the College is a Council to be known as “ The Council of the Canberra College of Advanced Education”.

(2.) All acts and things done in the name of, or on behalf of, the College with the authority of the Council shall be deemed to have been done by the College.

Constitution of Council.

8.—(1.) The Council shall consist of—

- (a) the Principal of the College;
- (b) the Vice-Chancellor, or the Deputy Vice-Chancellor holding office as a member instead of the Vice-Chancellor in accordance with an appointment under the next succeeding section;
- (c) two members of the teaching staff of the College elected by that teaching staff;
- (d) persons not exceeding eight in number appointed by the Governor-General;
- (e) persons not exceeding four in number appointed by the Council; and
- (f) if a person other than a person who is already a member of the Council is appointed, in accordance with section 13 of this Act, to be the Chairman of the Council, the person so appointed.

(2.) Of the two members of the teaching staff of the College referred to in paragraph (c) of the last preceding sub-section—

- (a) one shall be elected at an election at which only members of the senior teaching staff of the College are eligible to be candidates; and
- (b) the other shall be elected at an election at which, subject to the Statutes, any member of the teaching staff may be a candidate.

(3.) If a person other than the Principal of the College is for the time being performing the duties of the office of Principal of the College, that person may attend meetings of the Council and, for the purposes of those meetings, shall be deemed to be a member of the Council.

(4.) If the Vice-Chancellor is or, but for a vacancy in that office, would be a member of the Council, a person for the time being performing the

duties of the office of the Vice-Chancellor may attend meetings of the Council and, for the purposes of those meetings, shall be deemed to be a member of the Council.

(5.) If the Deputy Vice-Chancellor is a member of the Council, a person for the time being performing the duties of the office of the Deputy Vice-Chancellor may attend meetings of the Council and, for the purposes of those meetings, shall be deemed to be a member of the Council.

(6.) The term of office of a member other than an *ex officio* member shall be as provided by this Act, but such a member is eligible for re-appointment or re-election.

9.—(1.) The Minister may, at the request of the Vice-Chancellor, appoint the person who is, at the time of the appointment, the Deputy Vice-Chancellor to be a member of the Council instead of the Vice-Chancellor.

Appointment
of Deputy
Vice-Chancellor
in place of
Vice-
Chancellor.

(2.) If the Deputy Vice-Chancellor is so appointed, he holds office, subject to this Act, up to and including the thirtieth day of September next following the date on which his appointment takes effect, but ceases to hold office if he sooner ceases to be the Deputy Vice-Chancellor.

(3.) The tenure of office of the Deputy Vice-Chancellor under this section is not affected by the fact that the person who requested his appointment ceases to be the Vice-Chancellor.

10.—(1.) In this section, “staff member” means a member of the Council referred to in paragraph (c) of sub-section (1.) of section 8 of this Act.

Members
elected by
teaching staff.

(2.) Of the two staff members first elected, one shall hold office, subject to this Act, for a period of two years and one shall hold office, subject to this Act, for a period of one year, and the terms of office of those members shall commence on a date to be determined by the Minister.

(3.) Except as otherwise provided by this section, a staff member shall hold office, subject to this Act, for a period of two years from the expiration of the term of office of the member whose place he fills.

(4.) If a staff member has ceased to hold office before the expiration of his term of office, a staff member shall, if the Minister so directs, be elected to hold office until the expiration of that term, and the election shall be held in accordance with whichever of the paragraphs of sub-section (2.) of section 8 of this Act was applicable to the election of the member who has ceased to hold office.

(5.) A staff member ceases to be a member if he ceases to be a member of the teaching staff of the College.

Members
appointed by
the Governor-
General.

11. A member appointed by the Governor-General in accordance with paragraph (d) of sub-section (1.) of section 8 of this Act shall be appointed to hold office, subject to this Act, for such period, not exceeding four years, as the Governor-General thinks fit.

Members
appointed
by Council.

12. A member appointed by the Council in accordance with paragraph (e) of sub-section (1.) of section 8 of this Act shall be appointed to hold office, subject to this Act, for such period, not exceeding four years, as the Council thinks fit.

Chairman and
Deputy
Chairman
of the Council.

13.—(1.) The Council shall, from time to time as occasion requires—

- (a) appoint a member of the Council (not being an *ex officio* member or the Deputy Vice-Chancellor) or another person to be the Chairman of the Council; and
- (b) appoint a member of the Council to be the Deputy Chairman of the Council.

(2.) If the Council appoints as Chairman a person who is not a member, the Council shall specify a period, not exceeding four years, as the term for which he is appointed, and the person so appointed—

- (a) becomes a member on the date on which his appointment as Chairman takes effect and continues to be a member, subject to this Act, for the period so specified by the Council;
- (b) ceases to be the Chairman at the end of the period so specified or if he sooner ceases to be a member; and
- (c) may resign his office as Chairman by writing under his hand delivered to the Minister, in which event he also ceases to be a member.

(3.) A member of the Council appointed as Chairman or Deputy Chairman holds office as Chairman or Deputy Chairman—

- (a) for the period, if any, fixed by the Council at the time of the appointment; or
- (b) if no period is so fixed, until the expiration of his term of office as a member that is current at the time of the appointment,

but ceases to be the Chairman or Deputy Chairman if he ceases to be a member, and may resign his office as Chairman or Deputy Chairman by writing under his hand delivered to the Deputy Chairman or to the Chairman.

(4.) A person is eligible to be re-appointed as the Chairman or Deputy Chairman.

Disqualifi-
cations.

14. A person who—

- (a) is not of the full age of twenty-one years;

- (b) is an undischarged bankrupt or a person in respect of whom there is in operation a composition, deed of arrangement or deed of assignment with his creditors under the law relating to bankruptcy; or
- (c) is under sentence of imprisonment for an offence,
- is not capable of becoming a member.

15.—(1.) If a member other than an *ex officio* member—

Vacation of office.

- (a) becomes a person referred to in paragraph (b) or (c) of the last preceding section;
- (b) is absent without leave of the Council from three consecutive meetings of the Council; or
- (c) without reasonable excuse, fails to comply with his obligations under the next succeeding sub-section,
- the Governor-General shall remove him from office.

(2.) A member who is directly or indirectly interested in a contract made or proposed to be made by the College, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(3.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the Council and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Council with respect to the contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

(4.) If an interest referred to in sub-section (2.) of this section is patent, that sub-section does not apply but the last preceding sub-section applies as if there had been a disclosure in accordance with sub-section (2.) of this section.

(5.) The Governor-General may remove a member other than an *ex officio* member from office on the ground of misbehaviour or physical or mental incapacity.

(6.) A member other than an *ex officio* member may resign from membership of the Council by writing under his hand delivered to the Chairman or the Deputy Chairman.

16.—(1.) The Chairman or if, for any reason, the Chairman is not available, the Deputy Chairman—

Meetings of Council.

- (a) may convene meetings of the Council, and shall comply with any resolution of the Council with respect to the convening of meetings; and

(b) shall, on receipt of a written request signed by not less than four members, convene a meeting of the Council.

(2.) If neither the Chairman nor the Deputy Chairman is available, the Minister may convene a meeting of the Council.

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

(4.) At a meeting of the Council at which the Chairman is not present, the Deputy Chairman shall preside.

(5.) At a meeting of the Council at which neither the Chairman nor the Deputy Chairman is present, the members present shall appoint one of their number to preside.

(6.) At a meeting of the Council, one-half of the members for the time being of the Council constitute a quorum.

(7.) Subject to the next succeeding sub-section, all questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting, and for this purpose the member presiding at the meeting has a deliberative vote only.

(8.) In the event of an equality of votes on a resolution proposed at a meeting of the Council, the resolution shall be taken not to be passed, but if the same resolution is proposed at the next meeting of the Council held on a subsequent day and there is again an equality of votes, the member presiding at that meeting has a casting vote on the proposed resolution.

**Validity of
proceedings.**

17. No act or proceeding of, or of the members of any committee of, the Council, is invalidated by reason of—

- (a) a defect in the appointment or election of a member;
- (b) a disqualification of a member;
- (c) a defect in the convening of a meeting; or
- (d) a vacancy or vacancies in the membership of the Council.

**Interim
Council.**

18.—(1.) The Minister shall, by notice published in the *Gazette*, fix a day (in this section referred to as “ the appointed day ”), being a day not more than twelve months after the date of commencement of this Act, as the day on which the Council shall commence to exercise its powers.

(2.) At any time before the appointed day, the Minister may establish an Interim Council of the College, consisting of such persons as he appoints from time to time, and may appoint a Chairman and a Deputy Chairman of the Interim Council.

(3.) Unless and until it is sooner dissolved by the Minister, the Interim Council shall continue in existence until the appointed day and no longer.

(4.) The Interim Council shall perform all the functions, and has all the powers, of the Council, except the power to appoint members of the Council or the Chairman or Deputy Chairman of the Council.

(5.) Sections 14, 15, 16 and 17 of this Act apply in relation to the Interim Council in like manner as they apply in relation to the Council.

(6.) The Minister may give such directions as he thinks necessary in relation to the Interim Council.

19. There is hereby established an office in the service of the College of Principal of College. Principal of the College.

20.—(1.) Except as otherwise provided by the Statutes of the College, persons employed by the College shall be employed on such terms and conditions, including conditions with respect to the duration of the employment or with respect to dismissal from employment, as the Council determines. Terms and conditions of service of staff.

(2.) Where a person employed by the College was, immediately before becoming so employed, an officer of the service of the Public Service of the Commonwealth—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as a person so employed shall be taken into account as if it were service in the Public Service of the Commonwealth; and
- (c) the *Officers' Rights Declaration Act 1928–1959* applies as if this Act and this section had been specified in the Schedule to that Act.

(3.) The College shall be deemed to be—

- (a) an authority of the Commonwealth for the purposes of the *Commonwealth Employees' Compensation Act 1930–1967*;
- (b) a Commonwealth authority for the purposes of the definition of "Approved authority" in sub-section (1.) of section 4 of the *Superannuation Act 1922–1967*; and
- (c) a Commonwealth authority for the purposes of the *Air Accidents (Commonwealth Liability) Act 1963*.

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

- (a) the management, good government and discipline of the College and of the institution conducted by the College;
- (b) the imposition, by or on behalf of the College, of penalties upon students of the College or persons employed by the College for contravention of, or failure to comply with, a Statute with respect to a matter referred to in the last preceding paragraph;

- (c) the election of members of the Council by the teaching staff of the College, including—
- (i) the persons who are to be regarded as members of the teaching staff, and the persons who are to be regarded as members of the senior teaching staff, for the purposes of such an election;
 - (ii) the determination of questions arising in relation to the conduct or result of such an election; and
 - (iii) the determination by lot of the respective periods for which the two members first elected are to hold office in accordance with sub-section (2.) of section 10 of this Act;
- (d) admission of persons to courses of study or instruction of the College or to examinations of the College;
- (e) the courses of study and instruction of the College and the requirements for the award of diplomas and certificates;
- (f) the granting by the College of scholarships, bursaries and prizes;
- (g) the granting of exemption from payment of fees to all or any persons employed by the College otherwise than in a part-time capacity;
- (h) the provision of superannuation or similar benefits for, or in respect of, persons employed by the College; and
- (i) any other matter necessary or convenient for giving effect to this Act.

(2.) The Council may make Statutes—

- (a) for or in relation to the regulation or control of traffic, or of the parking, stopping, standing or leaving of vehicles, on land occupied by the College in the Australian Capital Territory, including Statutes authorizing, and providing for the effect of, signs and markings; and
- (b) providing for the punishment, upon summary conviction, by a fine not exceeding Twenty dollars, of offences against such a Statute.

(3.) A Statute made under the last preceding sub-section shall not be inconsistent with a law of the Australian Capital Territory, but shall not be taken to be inconsistent with such a law by reason only that it makes provisions with respect to a matter dealt with by that law, being provisions that can be complied with without contravention of that law.

(4.) A Statute may provide for empowering any authority (including the Council) or officer of the College to make rules, not inconsistent with this Act or a Statute, with respect to a matter with respect to which Statutes may be made under sub-section (1.) of this section, or for carrying out or giving effect to the Statutes made under that sub-section.

22.—(1.) A Statute made by the Council shall be sealed with the seal of the College and transmitted by the Council for the approval of the Governor-General.

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

(2.) A Statute approved by the Governor-General shall be notified in the *Gazette*, and, upon notification, has the force of law.

(3.) The Statutes shall be numbered consecutively in the order in which they are notified in the *Gazette*, and a notice in the *Gazette* of the fact that a Statute has been made, specifying the number of the Statute and a place at which copies of the Statute may be purchased, is sufficient compliance with the requirement that the Statute is to be notified in the *Gazette*.

(4.) A copy of every Statute notified in the *Gazette* shall be laid before each House of the Parliament within fifteen sitting days of that House after it is so notified.

(5.) The production of a document purporting to be a copy of a Statute and to be sealed with the seal of the College or to have been printed by the Government Printer is, in all proceedings, evidence of the Statute.

23. No religious test shall be administered or imposed, and no discrimination based on religion shall be applicable, in respect of—

No religious test.

- (a) admission to any course of study or instruction of the College;
- (b) the conferring of a diploma or certificate of the College;
- (c) employment by the College; or
- (d) the enjoyment of any benefit, advantage or privilege in relation to the College.

24.—(1.) A contract to be made by the College, being a contract that, if made by a person other than a body corporate, would be by law required to be in writing under the seal of that person, may be made on behalf of the College in writing under the seal of the College.

Contracts by College.

(2.) A contract to which the last preceding sub-section does not apply—

- (a) is not invalid by reason only that it is not executed under the seal of the College;
- (b) may be made on behalf of the College by a person acting with the authority of the College, express or implied; and
- (c) if made in writing, may be executed on behalf of the College by that person.

25.—(1.) Subject to this section, fees are payable to the College, at such rates as, subject to any directions of the Minister, the Council determines for all courses of study or instruction of the College, for entry to examinations conducted by the College and for such other facilities or privileges of the College as the Council determines or the Minister directs.

Fees.

(2.) A student who has been granted by the College, in accordance with the Statutes, a scholarship or bursary, is exempt from payment of fees to the extent of the exemption applicable under the scholarship or bursary.

Moneys of
College.

26.—(1.) There are payable to the College such amounts as are appropriated by the Parliament for the purposes of the College.

(2.) Moneys payable to the College under the last preceding sub-section shall be paid in such amounts and at such times as the Minister determines.

(3.) All moneys, including fees, received by the College, other than moneys held upon trust, shall be applied solely for the purposes of the College.

Bank
accounts.

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

(2.) The College shall pay all moneys of the College into an account referred to in this section.

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

Proper
accounts
to be kept.

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

Audit.

29.—(1.) The Auditor-General shall from time to time inspect and audit the accounts and records of financial transactions of the College, or relating to property of the College, including money or other property held on trust, and shall forthwith draw the Minister’s attention to any irregularity revealed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

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

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

(4.) The Auditor-General or an officer authorized by him may require a member of the Council or Interim Council or of the staff of the College to furnish him with such information in the possession of that person or to which that person has access as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Act, and that person shall comply with the requirement.

30.—(1.) The Council shall, within six months after each thirty-first day of December, furnish to the Minister a report of the operations of the College during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves. Reports.

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

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

(3.) The Minister shall lay the report and financial statements, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

(4.) The first report and statements under this section shall be furnished within six months after the thirty-first day of December, One thousand nine hundred and sixty-eight, and shall relate to the period commencing on the date of commencement of this Act and ending on that thirty-first day of December.
