



ANNO VICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1974

No. 33 of 1974

An Act to reconstitute the Adelaide Kindergarten Teachers College as an autonomous college of advanced education under the name of the "Kingston College of Advanced Education"; to provide for its administration and define its powers, functions, duties and obligations; and for other purposes.

[Assented to 11th April, 1974]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Kingston College of Advanced Education Act, 1974". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. In this Act, unless the contrary intention appears— Interpretation.
 - "statutes" means statutes made under this Act:
 - "student" means a person enrolled as a student of the College:
 - "student member" of the Council means a student elected as a member of the Council by the students of the College in accordance with the statutes, and for the time being holding that office:
 - "the academic staff" means all persons in the full time employment of the College as senior lecturers, lecturers or assistant lecturers, and includes such other persons as are classified by the Council as members of the academic staff:
 - "the ancillary staff" means all persons in the full time employment of the College other than as members of the academic staff and such other employees of the College as are classified by the Council as members of the ancillary staff:
 - "the College" means the Kingston College of Advanced Education (formerly the Adelaide Kindergarten Teachers College):
 - "the College grounds" means all land—
 - (a) held under any tenure by the College;

(b) placed under the care, control and management of the College pursuant to the provisions of this Act, and for the time being continuing under that care, control and management;

or

(c) used by the College for, or in connection with, the performance of the functions of the College,

and includes all buildings and structures on, and appurtenances to, that land:

“the Council” means the Council of the College constituted under this Act:

“the Director” means the person for the time being holding, or acting in, the office of Director of the College under this Act:

“the Kindergarten Union” means The Kindergarten Union of South Australia Incorporated:

“the Minister” means the Minister of Education:

“the staff” of the College means the academic and the ancillary staff.

**Constitution
of College.**

4. (1) The College formerly known as the “Adelaide Kindergarten Teachers College” shall continue in existence under the name of the “Kingston College of Advanced Education” and—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable in its corporate name of acquiring, holding and disposing of real and personal property;

(c) shall be capable of acquiring or incurring any other legal rights or liabilities, and of suing and being sued;

(d) shall hold its property on behalf of the Crown;

and

(e) shall have the powers, authorities, duties and obligations prescribed by or under this Act.

(2) Where an apparently genuine document purports to bear the common seal of the College, it shall be presumed, in the absence of proof to the contrary, that the common seal of the College was duly affixed to that document.

**Functions of
College.**

5. The functions of the College are—

(a) the provision of advanced education and training in the theory and practice of education, and in such other fields as may, in the opinion of the Council, be necessary for the proper education and training of those who seek to practise the profession of teaching as kindergarten, or pre-school, teachers or administrators;

(b) the provision of advanced education and training in such other fields of knowledge and expertise as the Council, after consultation with the Board of Advanced Education, may determine;

- (c) the dissemination of knowledge in the fields with which the College is concerned to the advancement of the public interest;
 - (d) the provision of post-graduate, or practical courses, for the benefit of those engaged in occupations for which the College provides education and training;
- and
- (e) the fostering and furtherance of an active corporate life within the College.

6. (1) The College may—

Power to award degrees, etc.

- (a) confer degrees, diplomas and other awards recognized and approved by the South Australian Board of Advanced Education upon those who have completed courses of advanced education accredited by the Board;
- and
- (b) may confer honorary degrees or diplomas, or degrees or diplomas *ad eundem gradum* on persons who are entitled to such degrees or diplomas in accordance with the statutes of the College.

(2) The College may award scholarships conferring such privileges or concessions in relation to tuition as may be authorized by the statutes of the College.

7. (1) The College shall not discriminate against or in favour of any person on grounds of sex, race or religious or political belief.

Prohibition against discrimination.

(2) Notwithstanding the provisions of subsection (1) of this section, the College may, with the approval of the Minister, make special provision for any students, or class of students, where it is, in the opinion of the College, necessary to do so to enable those students, or students of that class, to overcome any cultural or educational disadvantage to which they may be subject.

8. (1) The College shall be managed and administered by a Council constituted in accordance with this section.

Management of College.

(2) The Council shall be constituted of the following members:—

- (a) the Director, who shall be a member of the Council *ex officio*;
- (b) two members of the staff of the College elected by the staff;
- (c) two students of the College elected by the students;
- (d) two officers of the Education Department appointed by the Governor on the nomination of the Director-General of Education;
- (e) two persons with extensive experience in education of whom at least one shall be a member of the teaching staff of a kindergarten registered by the Kindergarten Union, appointed by the Governor on the nomination of the Minister;
- (f) two persons appointed by the Governor on the nomination of the Board of Management of the Kindergarten Union;

(g) one person employed upon the academic or administrative staff of any other institution providing tertiary education in South Australia, appointed by the Governor on the nomination of the Minister;

(h) four other persons appointed by the Governor on the nomination of the Minister;

and

(i) any persons co-opted to membership of the Council under this section.

(3) The Council may from time to time co-opt a person (or persons) to membership of the Council, but there shall not be more than two such members of the Council at any one time.

(4) A person shall not be co-opted to membership of the Council under subsection (3) of this section if he would be qualified for election or appointment under paragraph (b), (c), (d) or (e) of subsection (1) of this section, or if he is an employee of the Kindergarten Union.

(5) If before the commencement of this Act the Minister caused elections to be held in which those persons who were in his opinion likely to become the staff or students of the College constituted separate electorates and elected from amongst their respective membership candidates seeking membership of the Council under paragraphs (b) and (c) of subsection (2) of this section, the persons so elected shall be deemed to have been elected to membership of the Council under those respective paragraphs upon the commencement of this Act.

(6) The Minister shall not nominate a person for appointment under paragraph (e) of subsection (1) of this section unless he has had prior consultation with the South Australian Institute of Teachers in relation to the proposed nomination.

(7) A member of the Council shall not, in the exercise of his powers or functions as such, be subject to the direction of any person or body of persons.

President and
Vice-President.

9. (1) The Council shall, from time to time as occasion arises, appoint from its own membership, a President and Vice-President.

(2) The term of office of the President or Vice-President, the conditions upon which they shall hold their respective offices, and the powers, functions and duties appertaining to their respective offices, shall be as prescribed by the statutes of the College.

(3) No member of the staff or students of the College shall be eligible for election as President or Vice-President of the Council.

Conditions of
membership of
Council.

10. (1) Subject to this section and the statutes, a member of the Council (other than a member who holds office *ex officio*, or a student member) shall hold office for a term of two years.

(2) A student member of the Council shall hold office for a term of one year.

(3) Upon the expiration of his term of office a member of the Council shall, subject to this Act, be eligible for re-election or re-appointment.

(4) A person appointed or elected to a casual vacancy before the expiration of the term of his predecessor shall hold office for the balance of the term of his predecessor.

(5) Where a member of the Council does not continue in the capacity by virtue of which he was entitled to election or appointment as a member of the Council, he may nevertheless continue as a member of the Council until the expiration of his term of office.

(6) The Governor may remove a member of the Council from office for—

- (a) physical or mental incapacity;
- (b) dishonest or dishonourable conduct;
- or
- (c) neglect of duty.

(7) A member of the Council shall be deemed to be guilty of neglect of duty when he has, without leave of the Council, been absent from at least three consecutive meetings of the Council occurring over a period of at least three months.

(8) A member of the Council may resign from his office at any time by notice in writing given to the President.

11. (1) A decision carried by a majority of the votes of the members present at a meeting of the Council shall be a decision of the Council. Quorum, etc.

(2) A quorum of the Council shall consist of the prescribed number of members of the Council calculated in accordance with subsection (3) of this section.

(3) The prescribed number shall be calculated by dividing the number of persons who are for the time being members of the Council by two, ignoring any fraction resulting from the division, and adding one.

(4) The President, or if he is not present, the Vice-President, or if the President and Vice-President are not present, a chairman elected by the members present, shall preside at a meeting of the Council.

(5) The person presiding at a meeting of the Council shall, in the event of equality of votes upon any question arising before the Council, have a second or casting vote.

(6) Subject to this Act, and the statutes, the business of the Council shall be conducted in such manner as the Council may determine.

12. An act or decision of the Council shall not be invalid by reason only of any vacancy in the office of a member of the Council or on the ground of any defect in the election, nomination or appointment of any member of the Council. Validation of acts of Council.

13. (1) The Council—

- (a) shall be the governing authority of the College;
- (b) may appoint and dismiss officers and employees of the College;
- and
- (c) shall have full power to perform any other act necessary or expedient for the due administration of the College, and the performance of the functions for which the College is established.

General powers
of Council.

(2) The Council may, at any time delegate any of its powers under this Act to any committee or board appointed by the Council, or to any members, officer or employee of the Council.

(3) The delegation of powers under this section shall not derogate from the power of the Council to act itself in any matter.

Collaboration
with other
bodies.

14. (1) The Council shall, in the exercise and discharge of its powers and functions under this Act, collaborate with—

(a) the South Australian Board of Advanced Education;

(b) the Education Department and the Department of Further Education;

(c) the Kindergarten Union;

(d) the Australian Council on Awards in Advanced Education;

(e) the Commission on Advanced Education;

and

(f) any other body constituted under the law of the State or the Commonwealth with which collaboration is desirable in the interests of promoting the objects of this Act.

(2) In formulating any statutes or policies affecting the admission of students who desire to be trained for the profession of teaching, or the right of students to continue in any such course of training, the Council shall collaborate with the Minister, or any committee established for the purpose by the Minister, with a view to ensuring that the public interest, as assessed and determined by the Minister, in the education and training of teachers is adequately safeguarded.

Internal
organization
of the
College.

15. (1) The Council may establish such schools, departments or divisions (by whatever designation the Council may approve) within the College as it considers necessary or expedient for the purposes of the College and may, from time to time, abolish or re-arrange any such schools, departments or divisions and alter or amend the titles or designations thereof.

(2) The Council may appoint such committees and boards as it considers expedient and may define the powers, functions and duties of those committees or boards.

(3) A committee or board appointed under this section shall consist of such members as the Council thinks fit to appoint to that committee or board.

(4) A member of a committee or board appointed under this section shall hold office upon such terms and conditions as may be determined by the Council.

The Director.

16. (1) The Council shall from time to time, as occasion requires, appoint a suitable person to be Director of the College.

(2) The first Director of the College shall be the person, if any, occupying the position of Principal of the College immediately before the commencement of this Act.

(3) The Director shall be responsible to the Council for the management and administration of the College.

(4) The Director shall hold office upon such terms and conditions as may be prescribed by the statutes, or in the absence of statutes governing the office of the Director, as may be determined by the Council.

17. (1) For the purpose of promoting the development of an active corporate life within the College, the Council may approve the formation of any association or council of students, or students and staff, of the College. Association of students or students and staff.

(2) The constitution and rules of any such association or council must be approved by the Council.

18. (1) The Governor may, by instrument in writing, direct that any unalienated Crown lands, or any land held on behalf of the Crown, be vested in the College for an estate of fee simple. Property.

(2) The land comprised in Certificate of Title Register Book:

Volume 638 Folio 181;

Volume 638 Folio 182;

Volume 620 Folio 71;

Volume 836 Folio 125,

is hereby vested in the College for an estate of fee simple subject to any mortgage or encumbrance existing immediately before the commencement of this Act.

(3) The Registrar-General shall, upon proof to his satisfaction that land is vested in the College in pursuance of this section, and upon production of the duplicate certificates of title (if any) relating to the land, issue such new certificates of title or make such entries and notations upon existing certificates of title as may be necessary to evidence the vesting of the land in the College.

(4) The Governor may, by instrument in writing, place any unalienated Crown land under the care, control and management of the College.

(5) The Governor may, by instrument in writing, resume any land placed under the care, control and management of the College pursuant to subsection (4) of this section.

(6) The Minister may, subject to, and in accordance with, the Land Acquisition Act, 1969-1972, acquire land for the purposes of the College.

19. (1) Any person employed by the Kindergarten Union who was, on the day immediately before this Act comes into operation, engaged in academic, administrative or ancillary functions in the College shall become an employee of the College on the day on which this Act comes into operation. Transfer of staff to College.

(2) The status and salary of any such person shall not be reduced upon transfer to the employment of the College.

(3) The existing and accruing rights of any such employee in respect of recreation leave, sick leave or long service leave, shall continue in effect.

(4) The Minister may give such directions as may be necessary to resolve any dispute arising in relation to the application or effect of this section upon an employee of the College and any such direction shall have effect according to its terms.

(5) Any person, who was immediately before the commencement of this Act an employee of the Kindergarten Union, and, upon the commencement of this Act, became an employee of the College, may, on or before a day determined for the purpose of this section by the Minister elect—

(a) to become a contributor under the Superannuation Act, 1969-1973;

or

(b) to remain a contributor to the Superannuation Fund established by the Kindergarten Union.

(6) If pursuant to subsection (5) of this section a person elects to remain a contributor to the Superannuation Fund established by the Kindergarten Union the College shall, for so long as that person remains an employee of the College, undertake payment of the contributions to which the Kindergarten Union was previously liable in respect of the superannuation of that contributor.

(7) Subject to subsection (8) of this section an employee of the College may become a contributor under the Superannuation Act, 1969-1973.

(8) An employee who has elected to remain a contributor to the Superannuation Fund established by the Kindergarten Union may not, while he continues a contributor to that Fund, be a contributor for the purposes of the Superannuation Act, 1969-1973.

Statutes.

20. (1) The Council may make, alter and repeal statutes for all or any of the following purposes, or with respect to all or any of the following matters:—

(a) the conduct of the business and proceedings of the Council;

(b) the election of members of the Council;

(c) the conditions upon which the President, Vice-President, the Director or any other member, officer or employee of the Council shall hold office;

(d) the management of the College;

(e) the qualifications required for admission to any course or courses of education or training provided by the College;

(f) the conferring of fellowships, degrees, diplomas, certificates, scholarships, exhibitions, prizes and other awards in accordance with this Act;

(g) the fees payable to the College by students, or any class of students for instruction or training provided by the College;

(h) the fees payable to the College for any purpose, or payable to any association or council of students, or students and staff, of the College;

(i) the abatement or waiver of fees;

(j) courses of instruction, lectures and classes to be provided by the College;

(k) examinations and other methods of assessing the academic attainments and performance of students;

(l) residential accommodation for students and the licensing of boarding houses;

- (m) the establishment and management of branches of the College;
 - (n) co-operation between the College and any University or other college or educational institution and the affiliation of educational institutions with the College;
 - (o) the maintenance of good order and discipline in the College;
 - (p) the establishment of a Board of Discipline and its practice, procedure, jurisdiction and powers (which may include powers to punish by a monetary penalty by expulsion or suspension from the College, or by exclusion from rights, privileges or benefits conferred by or arising under, this Act or the statutes);
 - (q) the establishment, practice and procedure of an Appeals Board for the determination of appeals from the decisions of the Board of Discipline;
 - (r) the establishment and administration of a fund for the purpose of assisting students in necessitous circumstances;
- and
- (s) any other matter affecting the administration of the College.

(2) Every proposed statute shall, at least fourteen days before the day on which it is made by the Council, be submitted to the South Australian Board of Advanced Education for review.

(3) Every statute made pursuant to this section shall—

- (a) be sealed with the seal of the College and submitted to the Governor for confirmation;
 - (b) after confirmation be published in the *Gazette* and laid before Parliament;
- and
- (c) take effect on the day on which it is published in the *Gazette*, or on any later day prescribed in the statute.

(4) If either House of Parliament, pursuant to a notice of motion given within fourteen sitting days after the statute has been laid before the House, passes a resolution disallowing the statute, it shall cease to have effect, but the disallowance shall not affect the validity or legality or cure the invalidity or illegality of any act or omission occurring in the meantime.

(5) Notice of a resolution passed under subsection (4) of this section shall be published in the *Gazette*.

(6) A monetary penalty imposed for an offence against a statute shall be a debt due to the College and shall be recoverable by the College by action in any court of competent jurisdiction.

21. (1) The Council may make, alter and repeal by-laws for all or any of the following purposes:—

- (a) to prohibit persons from trespassing on the College grounds;
- (b) to prevent damage to the College grounds (including any fixtures, chattels, trees, shrubs, bushes, flowers, gardens and lawns on those grounds);

- (c) to regulate the speed at which vehicles may be driven on the College grounds;
 - (d) to prohibit dangerous or careless driving of vehicles on the College grounds;
 - (e) to restrict or prohibit the driving of any vehicle upon the College grounds according to the laden weight of the vehicle or any part of the vehicle;
 - (f) to prescribe the route to be followed by traffic on roads, ways or tracks within the College grounds, and the gates to be used for the entrance and exit of vehicles and pedestrians, and to require the observance of one-way traffic rules on specified roads, ways or tracks;
 - (g) to prohibit or regulate parking, ranking, placing and arranging of vehicles on the College grounds and to provide for the removal of vehicles from the College grounds;
 - (h) to require drivers or persons in charge of vehicles on the College grounds to comply with traffic directions (which may include directions as to the speed of vehicles, the course and direction of vehicles, the parking or standing of vehicles, and any other matters required for order or safety);
 - (i) generally to regulate traffic of all kinds on the College grounds;
 - (j) to prohibit disorderly or offensive behaviour on the College grounds, and to provide for the removal from those grounds of persons guilty of disorderly or offensive behaviour thereon;
 - (k) to regulate, restrict or prohibit the consumption of alcoholic liquor on the College grounds and the bringing of alcoholic liquor on to those grounds, and to provide for the removal of intoxicated persons from the College grounds;
 - (l) to provide for the seizure and confiscation of alcoholic liquor that has been brought on to the College grounds in contravention of a by-law;
 - (m) to prevent persons from climbing on fences or buildings or walking on buildings and over gardens or lawns on the College grounds;
 - (n) to regulate the conduct of meetings on the College grounds;
 - (o) to prevent the interruption of lectures or meetings by noise or unseemly behaviour on the College grounds (whether within or outside buildings), and to prevent undue noise from motor vehicles on the College grounds;
 - (p) to prescribe fines, not exceeding fifty dollars, for contravention of any by-law;
 - (q) to prescribe any other matters necessary or expedient for the maintenance of good order on the College grounds or for the protection of property or for the prevention of hindrance to or interference with any activities conducted on the College grounds;
- and
- (r) to limit the operation of any by-law to a prescribed portion of the College grounds.

(2) Where the Council of the College proposes to make a by-law under this section, it shall, at least fourteen days before the by-law is made, submit the proposed by-law to the South Australian Board of Advanced Education.

(3) Every by-law made under this section shall—

(a) be sealed with the seal of the College and submitted to the Governor for confirmation;

(b) after confirmation, be published in the *Gazette* and laid before each House of Parliament within the first fourteen sitting days of that House after the publication of the by-law in the *Gazette*;

(c) take effect from the day of publication in the *Gazette*, or any later day prescribed in the by-law.

(4) If either House of Parliament, pursuant to a notice of motion given within fourteen sitting days after the by-law is laid before that House, passes a resolution disallowing the by-law, it shall cease to have effect but the disallowance of the by-law shall not affect the validity or legality or cure the invalidity or illegality of any act or omission occurring in the meantime.

(5) Notice of a resolution under subsection (4) of this section shall be published in the *Gazette*.

(6) Proceedings in respect of offences against a by-law shall, subject to subsection (7) of this section, be heard and determined summarily.

(7) The statutes may provide for proceedings against students or staff of the College in respect of offences against a by-law to be heard and determined by a Board of Discipline established under the statutes and for appeals against decisions of that Board of Discipline in respect of any such offence to be heard and determined by an Appeal Board established under the statutes.

(8) An allegation in a complaint that any specified place was within the College grounds shall be deemed to be proved in the absence of proof to the contrary.

(9) Where it is alleged that a person has committed an offence against a by-law of the College relating to vehicular traffic or the parking of motor vehicles, the College may cause to be served personally or by post upon that person a notice to the effect that he may expiate the offence by payment to the College of an amount specified in the notice, being an amount fixed by by-law, within a time fixed in the notice, and if the offence is so expiated no proceedings shall be commenced in any court in respect of the alleged offence.

22. (1) Where a statute or by-law has been confirmed by the Governor and published in the *Gazette* all conditions precedent to the making of the statute or by-law shall be conclusively presumed to have been fulfilled.

Validity of
statutes and
by-laws.

(2) Section 38 of the Acts Interpretation Act shall not apply to statutes and by-laws made under this Act.

(3) A statute or by-law made under this Act shall not take away or restrict any civil or criminal liability under any other Act or at common law.

(4) Where an act or omission is an offence against a statute and a by-law under this Act, the offender may be charged and punished either under the statute or the by-law, but not under both.

(5) The Council may, by resolution, adopt with such adaptations and modifications as it considers necessary any rules, regulations or schedules governing the administration of the College before the commencement of this Act.

(6) Any rules, regulations or schedules so adopted shall (with such adaptations and modifications as have been made by the Council) have effect as statutes or by-laws of the College for a period (which must expire on or before the expiration of two years from the commencement of this Act) specified in the resolution.

Report.

23. (1) The Council shall, not later than the thirtieth day of June in each year prepare and present to the Governor a report on the administration of the College during the previous calendar year.

(2) The Minister shall cause a copy of the report to be laid as soon as practicable before each House of Parliament.

Accounts and audit.

24. (1) The College shall cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may, at any time, and shall at least once in every calendar year, audit the accounts of the College.

(3) For the purpose of the audit, the Auditor-General shall have, and may exercise, in relation to the accounts of the College and the officers and employees of the College, the same powers as are vested by the Audit Act in the Auditor-General in relation to public accounts and accounting officers.

Financial provision.

25. (1) The Treasurer shall pay to the College in each financial year such amounts as may be necessary in his opinion for the purpose of enabling the College adequately to perform and discharge its functions and duties under this Act.

(2) The College shall submit to the South Australian Board of Advanced Education at such times, and in such form as the Board may require, such information in relation to the financial requirements of the College as the Board may require.

Power to borrow.

26. (1) The College may, with the approval of the Treasurer, borrow money for the purpose of enabling it to perform its functions under this Act.

(2) The repayment of any money so borrowed, and the interest thereon, is hereby guaranteed by the Treasurer.

(3) The Treasurer may, without any authority other than this section, pay out of the general revenue of the State any moneys required for the purpose of discharging obligations arising by virtue of a guarantee under this section.

27. The College shall be exempt from—

Exemption from
rates and taxes.

(a) any gift duty under the Gift Duty Act, 1968-1973;

(b) any land tax under the Land Tax Act, 1936-1972;

and

(c) any rates under the Local Government Act, 1934-1973.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor