



ANNO TRICESIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 1 of 1982

An Act for the establishment of the South Australian College of Advanced Education; to provide for its administration and define its powers, functions, duties and obligations; to incorporate within the College the educational institutions presently known as the "Adelaide College of the Arts and Education", the "Hartley College of Advanced Education", the "Salisbury College of Advanced Education" and the "Sturt College of Advanced Education"; to repeal the Adelaide College of the Arts and Education Act, 1978, the Hartley College of Advanced Education Act, 1978, and the Colleges of Advanced Education Act, 1972-1979; to amend the Tertiary Education Authority Act, 1979; and for other purposes.

[Assented to 7 January 1982]

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 "South Australian College of Advanced Education Act, 1982". Short title.

2. This Act shall come into operation on the first day of January, 1982. Commencement.

3. In this Act, unless the contrary intention appears— Interpretation.

"the academic staff" means all employees of the College engaged in teaching duties, and includes such other persons as are classified by the Council as members of the academic staff:

"the Authority" means the Tertiary Education Authority of South Australia:

"the College" means the South Australian College of Advanced Education:

"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 or structures on, and appurtenances to, that land:

“the constituent Colleges” means the Adelaide College of the Arts and Education, the Hartley College of Advanced Education, the Salisbury College of Advanced Education, and the Sturt College of Advanced Education:

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

“the general staff” means all persons in the employment of the College otherwise than as members of the academic staff:

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

“the senior staff” means such members of staff of the College as are classified by the Council as members of the senior staff:

“statutes” means the 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 to the Council by the students of the College in accordance with the statutes, and for the time being holding that office.

**Establishment
of College.**

4. (1) There shall be a college entitled the “South Australian College of Advanced Education”.

(2) The College shall be formed by the merger of the constituent Colleges.

(3) The College—

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

(b) shall be capable in its corporate name of acquiring, holding, dealing with, 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.

(4) The College shall not mortgage, charge, sell or otherwise dispose of any of its real property except with the consent of the Minister.

(5) 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 the College.**

5. The functions of the College are—

(a) the provision of advanced education, training and research in such fields of knowledge or expertise as the Council may determine;

- (b) the dissemination of knowledge, and the advancement of skills, in fields with which the College is concerned for the advancement of the public interest;
 - (c) the provision of consultative and research services for the benefit of the community, or any part of the community;
 - (d) the provision of post-graduate or refresher courses for those engaged in occupations for which the College provides education and training, and such related occupations as the Council may determine;
 - (e) the fostering and furtherance of an active corporate life within the College;
- and
- (f) the development of educational and cultural activity for the benefit of the wider community.

6. (1) The College may—

- (a) confer degrees, diplomas and other awards recognized and approved by the Authority upon those who have completed courses of advanced education accredited by the Authority;
- and
- (b) confer fellowships and other honorary awards upon persons who in the opinion of the Council merit special recognition by the College.

Conferring of
degrees,
diplomas, etc.

(2) A degree, diploma or other award may be conferred by the College under subsection (1) (a) jointly with some other tertiary institution.

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

(4) A degree, diploma or other award conferred by any of the constituent Colleges shall be recognized by the College.

7. (1) The College shall not discriminate against or in favour of any person on the ground of sex, marital status, religion, race, political belief or physical impairment.

College
not to
discriminate.

(2) Notwithstanding the provisions of subsection (1), the College may, with the approval of the Minister, make special provision for any students, or class of student, where it is, in the opinion of the Council, 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.

(3) In this section—

- (a) "sex" and "marital status" have the meanings attributed to those expressions by the Sex Discrimination Act, 1975;
 - (b) "race" has the meaning attributed to that expression by the Racial Discrimination Act, 1976;
- and
- (c) "physical impairment" has the meaning attributed to that expression by the Handicapped Persons Equal Opportunity Act, 1981.

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

Constitution of
the Council.

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

- (a) the Principal, who shall be a member of the Council *ex officio*;
- (b) a member of the senior staff of the College elected by the senior staff;
- (c) three members of the academic staff of the College elected by the academic staff;
- (d) three members of the general staff of the College elected by the general staff;
- (e) three students of the College elected by the students;
- (f) fourteen other persons appointed by the Governor on the nomination of the Minister.

(3) A member of the staff of the College is not eligible for election as a student member of the Council.

(4) If before the commencement of this Act, the Minister caused elections to be held in which—

- (a) the Directors of the constituent Colleges constituted one electorate and elected one of their number to membership of the Council;
- (b) the academic staff of the constituent Colleges constituted one electorate and elected three of their number to membership of the Council;
- (c) the general staff of the constituent Colleges constituted one electorate and elected three of their number to membership of the Council;
- (d) the students of the constituent Colleges constituted one electorate and elected three of their number to membership of the Council,

(being, in the case of the elections referred to in paragraphs (b), (c) and (d), so conducted that not more than one person drawn from amongst the academic staff, the general staff or the students of any one of the constituent Colleges could be elected in any one of those elections) the persons so elected shall be deemed to have been elected to membership of the Council under subsection (2) (b), (c), (d) and (e) respectively upon the commencement of this Act.

(5) 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
Deputy
President.

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

(2) The term of office of the President or Deputy 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 student, of the College shall be eligible for election as President or Deputy President of the Council.

Conditions of
office.

10. (1) Subject to this section and the statutes—

- (a) 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;

and

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

(2) The following members shall, subject to this section and the statutes, hold office for a term of one year:

- (a) one of the members first elected (or deemed to have been elected) from amongst the academic staff of the College;
- (b) one of the members first elected (or deemed to have been elected) from amongst the general staff of the College;
- and
- (c) seven of the members first appointed on the nomination of the Minister.

(3) The members referred to in subsection (2) shall be determined by lot.

(4) 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.

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

(6) Where an elected member of the Council does not continue in the capacity by virtue of which he was entitled to election as a member of the Council, his office shall become vacant.

(7) A member of Council may resign by giving notice in writing of his resignation to the President of the Council.

(8) Where a member who resigns under subsection (7) was appointed to the Council on the nomination of the Minister, a copy of the notice of resignation shall be forwarded to the Minister.

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.

Conduct of
business by the
Council.

(2) Thirteen members of the Council shall constitute a quorum of the Council.

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

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

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

12. An act or decision of the Council shall not be invalid by reason only of a 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.

Validity of acts
and decisions
of the 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;
- (c) may fix fees or charges for tuition or other services provided by the College;
- and

Powers of the
Council.

(d) 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.

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

Council
to collaborate
with certain
bodies, etc.

14. (1) The Council shall, in the exercise of its powers and functions under this Act, collaborate with any body constituted under the law of the State or the Commonwealth with which the Council considers collaboration desirable in the interests of promoting the objects of the College.

(2) In formulating any statutes or policies affecting the admission of students, or the right of students to continue in any course, 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, is safeguarded.

(3) In determining the courses to be conducted by the College, the Council shall have regard to the needs of the community, as assessed and determined by the Minister.

Internal
organization of
the College.

15. (1) The Council may establish such schools or other 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, rearrange or abolish any such schools or divisions and alter or amend the titles or designations thereof.

(2) Notwithstanding the provisions of subsection (1)—

(a) there shall be within the College a school or division designated the "De Lissa Institute of Early Childhood and Family Studies";

and

(b) there shall be within the College a school or division designated the "South Australian School of Art".

(3) 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.

(4) 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.

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

The Principal.

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

(2) The first Principal of the College shall be the person nominated for that purpose by the Minister.

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

(4) The Principal shall hold office on such terms and conditions as may be prescribed by the statutes, or as may, subject to the statutes, be determined by the Council.

17. (1) Subject to this section, any person employed by one of the constituent Colleges immediately before the commencement of this Act shall, upon the commencement of this Act, become an employee of the College. Transfer of staff.

(2) The salary of any person referred to in subsection (1) shall not be reduced upon transfer to the employment of the College.

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

(4) Any dispute arising in relation to the application or effect of this section upon any employee of the College shall be resolved by an appellate committee to be established by the College.

(5) An employee of the College who was, immediately before the commencement of this Act, a contributor to a superannuation scheme approved by any of the constituent Colleges may remain a contributor under that scheme and the liabilities undertaken by the constituent Colleges under such schemes shall, as from the commencement of this Act, be discharged by the College.

(6) Subject to subsection (7), and any arrangements between the South Australian Superannuation Board and the College, an employee of the College may become or remain a contributor to the South Australian Superannuation Fund.

(7) An employee who exercises his right under subsection (5) to remain a contributor to an approved superannuation scheme may not, while he continues to be such a contributor, become a contributor to the South Australian Superannuation Fund.

18. (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. Student bodies.

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

19. (1) The real and personal property of the constituent Colleges shall, upon the commencement of this Act, become the property of the College. Transfer of property to the College.

(2) The Governor may, on the recommendation of the Minister, 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 in fee simple.

(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, on the recommendation of the Minister, by instrument in writing, place any unalienated Crown land under the care, control and management of the College.

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

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

(7) All rights and liabilities of the constituent Colleges (whether vested or contingent) shall, upon the commencement of this Act, become rights and liabilities of the College.

Power to
make 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, Deputy President, the Principal or any other member of the Council, or officer or employee of the College, shall hold office;
 - (d) the management of the College;
 - (e) the qualification required for admission to any course of education or training provided by the College and the credits to be given for the purposes of any such course in respect of work completed elsewhere;
 - (f) the conferring of fellowships, degrees, diplomas, certificates, scholarships, exhibitions, prizes, and other awards in accordance with this Act;
 - (g) the collection, application and administration of fees payable to the College;
 - (h) the abatement or waiver of fees;
 - (i) courses of instruction, lectures and classes to be provided by the College;
 - (j) examinations and other methods of assessing the academic attainments and performance of students;
 - (k) residential accommodation for students and licensing of boarding houses for students;
 - (l) the establishment and management of branches of the College;
 - (m) co-operation between the College and any university or other college or educational institution, and the affiliation of educational institutions with the College;
 - (n) the maintenance of good order and discipline in the College;
 - (o) 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);
 - (p) the establishment of an appellate committee and its practice, procedure, jurisdiction and powers;
 - (q) the establishment or administration of a fund for the purpose of assisting students in necessitous circumstances;
- and
- (r) any other matter affecting the administration of the College.

(2) Where the Council proposes to make, alter or repeal a statute, it shall at least fourteen days before it does so, give notice in writing of the proposal to the Minister.

- (3) A 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 each House of Parliament;
- and
- (c) take effect on the day on which it is published in the *Gazette* or on a later day prescribed in the statute.

(4) Notwithstanding the foregoing provisions of this section, the Governor may, at any time before the expiration of one month from the commencement of this Act, by notice published in the *Gazette*, promulgate statutes of the College, and those statutes shall be deemed to have been made, confirmed and published under the foregoing provisions of this section and shall operate as from the commencement of this Act.

(5) 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.

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

(7) 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: By-laws.

- (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 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 in the contravention of the by-laws;
- (k) to regulate, restrict or prohibit the consumption of alcoholic liquor, and the bringing of alcoholic liquor onto those grounds, and to provide for the removal of intoxicated persons from those grounds;
- (l) to provide for the seizure and confiscation of alcoholic liquor that has been brought onto the College grounds in contravention of a by-law;
- (m) to prevent persons from climbing on fences or buildings, or walking over gardens or lawns;
- (n) to regulate the conduct of meetings on the College grounds;
- (o) to prevent the interruption of lectures, classes or meetings by noise or unseemly behaviour (whether within or outside buildings) and to prevent undue noise from motor vehicles;
- (p) to prescribe fines, not exceeding fifty dollars, for contravention of any by-laws;

and

- (q) to prescribe any other matters 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.

(2) A by-law shall operate generally throughout the College grounds unless its operation is expressly or by necessary implication limited to a particular part or particular parts of the College grounds.

(3) Where the Council proposes to make, alter or repeal a by-law, it shall, at least fourteen days before it does so, give notice in writing of the proposal to the Minister.

(4) A 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;

and

- (c) take effect from a date of publication in the *Gazette* or a later date prescribed in the by-law.

(5) Notwithstanding the foregoing provisions of this section, the Governor may, at any time before the expiration of one month from the commencement of this Act, by notice published in the *Gazette*, promulgate by-laws of the College and those by-laws shall be deemed to have been made, confirmed and published under the foregoing provisions of this section and shall operate as from the commencement of this Act.

(6) 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.

(7) Notice of a resolution under subsection (6) shall be published in the *Gazette*.

(8) Proceedings in respect of offences against a by-law shall, subject to subsection (9), be heard and determined summarily.

(9) The statutes may provide for proceedings against students or staff of the College in respect of offences against the by-laws to be heard and determined by a board of inquiry established under the statutes and for appeals against decisions of that board of inquiry in respect of any such offences to be heard and determined by an appellate committee established under the statutes.

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

(11) In any proceedings relating to an offence against a by-law—

(a) an allegation in a complaint that a person named in the complaint was the owner of a vehicle referred to in the complaint on a specified day shall be deemed to be proved in the absence of proof to the contrary;

and

(b) where it is proved that the vehicle was parked in the College grounds in contravention of a by-law it shall be presumed in the absence of proof to the contrary that the vehicle was so parked by the owner of the vehicle.

(12) 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 by-law shall be conclusively presumed to have been fulfilled.

Validity of
statutes and
by-laws.

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

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

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.

Report.

(2) The report shall contain a full account of the income and expenditure of the College audited in such manner as the Governor may direct.

(3) 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 purposes 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, 1921-1981, in the Auditor-General in relation to public accounts and accounting officers.

Financial
provision.

25. 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.

Borrowing
of money.

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) A liability incurred by the College under subsection (1) is 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.

Exemption
from certain
charges.

27. The College is exempt from the payment of land tax under the Land Tax Act, 1936-1981, and rates under the Local Government Act, 1934-1981.

Powers
conferred
by this Act
subordinated
to provisions
of the Tertiary
Education
Authority
Act.

28. The powers conferred on the College by this Act are subject to the provisions of the Tertiary Education Authority Act, 1979-1982.

Repeal and
amendment of
certain Acts.

29. (1) The following Acts are repealed:

(a) the Adelaide College of the Arts and Education Act, 1978;

(b) the Colleges of Advances Education Act, 1972-1979;

and

(c) the Hartley College of Advanced Education Act, 1978.

(2) The Tertiary Education Authority Act, 1979, is amended—

(a) by striking out Part A of the second schedule;

and

(b) by striking out the third schedule and substituting the following schedule:

THE THIRD SCHEDULE

The following are prescribed post-secondary institutions:

Roseworthy Agricultural College
South Australian College of Advanced Education
South Australian Institute of Technology
Department of Further Education.

(3) The Tertiary Education Authority Act, 1979, as amended by this Act, may be cited as the "Tertiary Education Authority Act, 1979-1982".

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

K. D. SEAMAN, Governor