



TERTIARY EDUCATION ACT, 1986

No. 119 of 1986

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ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 119 of 1986

An Act to provide for the planning and co-ordination of tertiary education, and for the maintenance of high standards in tertiary education, in South Australia; to repeal the Tertiary Education Authority Act, 1979; to amend the Roseworthy Agricultural College Act, 1973, the South Australian College of Advanced Education Act, 1982, the South Australian Institute of Technology Act, 1972 and the Technical and Further Education Act, 1976; and for other purposes.

[Assented to 18 December 1986]

The Parliament of South Australia enacts as follows:

1. This Act may be cited as the "Tertiary Education Act, 1986". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

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

"academic award" means an award conferred by an institution of tertiary education in recognition of achievement in a course conducted by the institution:

"the Advisory Council" or "the Council" means the Advisory Council on Tertiary Education established under this Act:

"course" means a course of tertiary education consisting of—

(a) a series of subjects or units;

(b) a project;

(c) research work;

or

(d) a combination of two or more of the above,

leading to an academic award:

"institution of tertiary education" means any body or person by whom tertiary education is provided:

"principal institution of tertiary education" means—

- (a) The University of Adelaide;
- (b) The Flinders University of South Australia;
- (c) Roseworthy Agricultural College;
- (d) South Australian College of Advanced Education;
- (e) South Australian Institute of Technology;
- (f) the Department of Technical and Further Education;
- (g) an institution declared by proclamation to be one of the principal institutions of tertiary education:

“tertiary education” means education (not being primary or secondary education) directed wholly or primarily at those who have completed their primary and secondary education or are above the age of compulsory school attendance:

“university” means The University of Adelaide or The Flinders University of South Australia.

(2) The Governor may, by proclamation, declare an institution to be one of the principal institutions of tertiary education for the purposes of this Act and may, by subsequent proclamation, vary or revoke such a proclamation.

(3) A proclamation must not be made under subsection (2) without the concurrence of the institution concerned.

Academic awards
conferred by
institutions of
tertiary education.

4. (1) Subject to subsection (5), an institution of tertiary education (other than a university) must not—

(a) confer a degree in relation to any course;

or

(b) confer any academic award in relation to a prescribed course,

unless the course is accredited by the Minister.

(2) Subject to subsections (4) and (5), a principal institution of tertiary education (other than a university) must not confer an academic award in relation to any course unless the course is accredited by the Minister.

(3) An institution of tertiary education (other than a principal institution of tertiary education) that contravenes subsection (1) is guilty of an offence.

Penalty: \$1 000.

(4) A course provided by a principal institution of tertiary education that requires less than one years full-time study or the equivalent of one years full-time study need not be accredited by the Minister unless a degree is conferred in relation to the course or the course is prescribed under subsection (1) (b).

(5) Subsections (1) and (2) do not apply in relation to a course approved by the Industrial and Commercial Training Commission under the Industrial and Commercial Training Act, 1981.

Accreditation of
courses, etc., by
Minister.

5. (1) The Minister may accredit a course, or a proposed course, if, after receiving and considering advice from the Chief Executive Officer of the Office of Tertiary Education, the Minister is satisfied that the standard

of the course and the method of instruction are appropriate to the academic award to be conferred in relation to the course.

(2) The Minister must, when accrediting a course, fix the period of accreditation.

(3) If the Minister refuses to accredit a course, or proposed course, the Minister must cause a statement of his or her reasons to be laid before each House of Parliament within 12 sitting days after the refusal.

(4) The Minister may delegate the power set out in subsection (1) to any person.

(5) The delegation—

(a) may be absolute or conditional;

(b) is revocable at will;

and

(c) does not derogate from the Minister's power to accredit a course.

6. (1) A principal institution of tertiary education (other than a university) must inform the Minister in writing of—

Proposal for the introduction of new courses, etc.

(a) a proposal to introduce a new course;

and

(b) all other proposals of a kind or kinds prescribed by regulation,

at least three months before implementing the proposal.

(2) The institution must provide the Minister with such information in relation to the proposal as the Minister may reasonably require.

(3) The Minister may direct the institution not to implement the proposal if, after receiving and considering advice from the Advisory Council, the Minister is satisfied that the proposal—

(a) would not be conducive to the effective and efficient planning or co-ordination of tertiary education;

(b) would result in the ineffective or inefficient use of resources in tertiary education to the detriment of the State;

(c) would, or might, reduce standards of tertiary education;

or

(d) would, for any other reason, be contrary to the public interest.

(4) The Minister must not give a direction under subsection (3) later than three months after being informed of the proposal, or, where the Minister requires further information, later than three months after receiving the information.

(5) An institution of tertiary education must not contravene the Minister's direction under subsection (3).

(6) The Minister may revoke a direction at any time.

(7) The Minister must cause a statement of the reasons for giving a direction to be laid before each House of Parliament within 12 sitting days after giving the direction.

Duty of institutions to provide information.

7. (1) A principal institution of tertiary education must provide the Minister with such information as the Minister may reasonably require to assist the Minister in carrying out his or her functions under this Act.

(2) In particular, such an institution must, when making an application or representation related to funding of the institution to the State or Commonwealth Government or to an instrumentality of the State or Commonwealth Government, inform the Minister of the nature and content of the application or representation.

(3) Subsection (2) does not apply to funding intended solely for research.

Advisory Council on Tertiary Education.

8. (1) There shall be a council entitled the "Advisory Council on Tertiary Education".

(2) The Council shall consist of the following members—

(a) nine persons (one of whom shall be the presiding officer of the Council) appointed by the Minister;

and

(b) six other persons appointed by the Minister of whom—

(i) one has been nominated by The University of Adelaide;

(ii) one has been nominated by The Flinders University of South Australia;

(iii) one has been nominated by Roseworthy Agricultural College;

(iv) one has been nominated by South Australian College of Advanced Education;

(v) one has been nominated by South Australian Institute of Technology;

and

(vi) one has been nominated by the Director-General of Technical and Further Education.

(3) In making appointments under subsection (2) (a) the Minister shall ensure, as far as possible—

(a) that the interests of the major cultural groups comprising the South Australian community are represented;

and

(b) that of the members appointed under subsection (2) (a) equal numbers of men and women are appointed.

(4) A member will be appointed for a term not exceeding 3 years upon such conditions as the Minister determines and at the expiration of that term of office is eligible for re-appointment.

(5) The Minister may appoint a person to be a deputy of a member and the deputy may, in the absence of that member, act as a member of the Council.

(6) The requirement of nomination made by this section in relation to the appointment of a member extends to the appointment of the member's deputy.

- (7) The Minister may remove a member from office for—
- (a) a breach of, or non-compliance with, the conditions of the appointment;
 - (b) mental or physical incapacity to carry out official duties satisfactorily;
 - (c) neglect of duty;
- or
- (d) dishonourable conduct.

- (8) The office of a member becomes vacant—
- (a) on death of the member;
 - (b) on expiration of the member's term of office;
 - (c) on resignation of the member by written notice to the Minister;
- or
- (d) on removal of the member from office by the Minister pursuant to subsection (7).

(9) Upon the office of a member becoming vacant a person will be appointed in accordance with this Act to the vacant office.

(10) A member is entitled to such remuneration, allowances and expenses as are determined by the Minister.

9. The function of the Council is to advise the Minister in relation to— Function of the Council.

- (a) the planning and co-ordination of tertiary education;
- and
- (b) the Minister's functions under this Act.

10. (1) The Minister may establish committees to advise the Minister in relation to particular areas of tertiary education or particular matters relating to tertiary education. Committees.

(2) In appointing members to committees under subsection (1) the Minister shall ensure, as far as possible—

- (a) that the interests of the major cultural groups comprising the South Australian community are represented;
- and
- (b) that equal numbers of men and women are appointed.

11. (1) The Minister must, before the thirtieth day of September in each year, prepare a report on the operation of this Act during the period of 12 months ending on the preceding thirtieth day of June. Report.

(2) The Minister must cause a copy of the report to be laid before each House of Parliament within 12 sitting days after the thirtieth day of September.

12. The offence constituted by this Act is a summary offence. Summary offence.

13. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act. Regulations.

(2) In particular a regulation may prescribe and provide for the payment of fees for any services provided by the Minister under this Act.

SCHEDULE 1

REPEAL AND AMENDING PROVISIONS

1. The Tertiary Education Authority Act, 1979, is repealed.
2. The following Acts are amended in the manner set out below:

Section Amended	How Amended
Roseworthy Agricultural College Act, 1973	
Section 15 (1)	Delete paragraph (a).
Section 21 (2)	Delete this subsection.
Section 22 (2)	Delete this subsection.
Section 26 (2)	Delete "the Tertiary Education Authority of South Australia and".
Section 30	Delete "Tertiary Education Authority Act, 1979" and substitute "Tertiary Education Act, 1986".
South Australian College of Advanced Education Act, 1982	
Section 3	Delete the definition of "the Authority".
Section 6 (1)	Delete paragraph (a) and substitute the following paragraph: (a) confer degrees, diplomas and other awards:
Section 28	Delete "Tertiary Education Authority Act, 1979-1982" and substitute "Tertiary Education Act, 1986"
South Australian Institute of Technology Act, 1972	
Section 23	Delete "Tertiary Education Authority Act, 1979" and substitute "Tertiary Education Act, 1986".
Technical and Further Education Act, 1976	
Section 10	Delete this section.

SCHEDULE 2

TRANSITIONAL PROVISIONS

1. A course accredited under the repealed Act, or deemed to be accredited by the repealed Act, shall be deemed to be accredited for the purposes of this Act during the period of accreditation that would have applied if the repealed Act had remained in force.

2. All the property, rights and liabilities vested in, or attached to, the Tertiary Education Authority of South Australia immediately before the repeal of the repealed Act shall, upon that repeal, vest in or attach to the Crown.

3. In this schedule—

“the repealed Act” means the Tertiary Education Authority Act, 1979.

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

D. B. DUNSTAN, Governor