

NORTHERN TERRITORY OF AUSTRALIA
ADVANCED EDUCATION AND DARWIN INSTITUTE
OF TECHNOLOGY ACT 1985

No. 59 of 1985

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NORTHERN TERRITORY OF AUSTRALIA

No. 59 of 1985

AN ACT

To establish the Northern Territory Council of Advanced Education and to provide for the continuation of the Darwin Institute of Technology, and for related purposes

[Assented to 12 December 1985]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Advanced Education and Darwin Institute of Technology Act 1985*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. DEFINITIONS

In this Act, unless the contrary intention appears -

"advanced education" means education of a kind normally provided by an institution, other than a university, concerned with the provision of post secondary school education, but does not include education accepted by the Council as technical or further education for the purposes of arrangements between the Territory and the Commonwealth relating to such education;

"By-laws" means by-laws made under section 42;

"Chairman" means the Chairman of the Council and includes the Deputy Chairman while he is acting as the Chairman;

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"Council" means the Northern Territory Council of Advanced Education established by section 4 and, in relation to anything done or suffered to be done before the commencement of this Act, includes the former council;

"Deputy Chairman" means the Deputy Chairman of the Council;

"Director" means the Director of the Institute and includes a person for the time being acting in or performing the duties of the office of the Director;

"Institute" means the Darwin Institute of Technology referred to in section 17;

"financial year" means the period of 12 months ending on 30 June or such other date as the Council determines under section 25;

"former council" means the Northern Territory Council of Higher Education established under the *Education Act* as then in force;

"member" means a member of the Council;

"Rules" means rules made under section 43.

PART II - NORTHERN TERRITORY COUNCIL
OF ADVANCED EDUCATION

Division 1 - Constitution, Membership and Meetings, &c.

4. ESTABLISHMENT AND CONSTITUTION OF COUNCIL

(1) There is hereby established a council by the name of the Northern Territory Council of Advanced Education.

(2) Subject to section 45, the Council shall consist of -

- (a) the Director;
- (b) the Secretary of the Department of Education or his nominee;
- (c) the person nominated by the Director as the Chairman of the Academic Board of the Institute;
- (d) 2 members of the full-time academic staff of the Institute elected by that staff;
- (e) one member of the non-academic staff of the Institute elected by that staff;
- (f) 2 students of the Institute elected by the students; and

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- (g) not more than 10 other persons appointed by the Administrator.

(3) A reference in subsection (2) to the Secretary of the Department of Education includes a reference to a person for the time being acting in or performing the duties of that office.

5. PERIOD OF OFFICE

(1) Subject to this Part, a member appointed under section 4(2)(g) by the Administrator holds office for such period, not exceeding 3 years, as the Administrator thinks fit and specifies in the instrument of appointment.

(2) Subject to this Part, a member elected as referred to in section 4(2)(d) or (e) holds office for 3 years commencing on 1 January of the first year of the 3 year period for which he is elected.

(3) Subject to this Part, a member elected as referred to in section 4(2)(f) holds office for 12 months commencing on 1 January of the year for which he is elected.

(4) At the first election of members elected as referred to in section 4(2)(d) held after the commencement of this Act the candidate for election who received the highest number of votes holds office, subject to this Part, for 3 years commencing on 1 January 1987 and the candidate who received the next highest number of votes holds office, subject to this Part, for 2 years commencing on that date.

6. RESIGNATION OF APPOINTED OR ELECTED MEMBERS

A member appointed under section 4(2)(g) or elected as referred to in section 4(2)(d), (e) or (f) may resign his office as a member by writing signed by him and delivered to the Chairman.

7. VACATION OF OFFICE

(1) A member, other than the Secretary of the Department of Education or the Director, vacates his office as a member if -

- (a) he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) he is convicted in the Territory of an offence punishable by imprisonment for 12 months or more, or is convicted elsewhere than in the Territory of an offence which, if committed in the Territory, would be an offence so punishable;

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- (c) he becomes a voluntary patient within the meaning of, or is ordered to be kept in custody under section 13 of, the *Mental Health Act* or is similarly confined, controlled or restricted under a law of a State or another Territory of the Commonwealth which provides for the care and control of persons who are mentally ill;
- (d) he absents himself, except on leave granted by the Council, from 3 consecutive meetings of the Council of which reasonable notice has been given to him personally or by post;
- (e) he resigns his office;
- (f) being an elected member, he ceases to hold the qualifications necessary for his election as that elected member; or
- (g) he knowingly contravenes or fails to comply with section 10.

8. CASUAL VACANCIES

(1) Where earlier than 12 months before the expiration of the period of office of a member elected as referred to in section 4(2)(d) or (e) a vacancy occurs in that office, the Council shall cause an election to be held in accordance with the By-laws to fill the vacancy.

(2) Where later than 12 months before the expiration of the period of office of a member elected as referred to in section 4(2)(d), (e) or (f) a vacancy occurs in that office other than by the expiration of the term of his office, the Council shall appoint a person, with the same qualifications for election as the member in whose stead he is appointed, to fill the vacancy.

(3) A person elected or appointed to fill a vacancy referred to in subsection (1) or (2) holds office, subject to this Part, for the unexpired period of office of the member in whose stead he is elected or appointed.

(4) In exercising its powers under subsection (2), the Council shall take into account the results of the election at which the member vacating his office was elected.

9. CHAIRMAN AND DEPUTY CHAIRMAN

(1) The Administrator shall, from time to time as the occasion requires, appoint a member appointed under section 4(2)(g) to be the Chairman of the Council.

(2) The members shall, from time to time as the occasion requires, at a meeting of the Council, elect one of their number to be the Deputy Chairman of the Council.

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(3) Subject to this section, the Chairman and Deputy Chairman hold office in their respective capacities -

- (a) for the period, if any, fixed by -
 - (i) in the case of the Chairman - the Administrator; and
 - (ii) in the case of the Deputy Chairman - the Council,

at the time of their appointment or election; or

- (b) where no period is fixed, until the expiration of their respective terms of office as members that are current at the time of their appointment or election or 3 years, whichever first occurs.

(4) The Chairman may resign his office as Chairman by writing signed by him and delivered to the Administrator.

(5) The Deputy Chairman may resign his office as Deputy Chairman by writing signed by him and delivered to the Chairman.

10. DISCLOSURE OF INTEREST

(1) A member who has a direct or indirect pecuniary interest in -

- (a) a matter being considered or about to be considered at a meeting of the Council; or
- (b) a thing being done or about to be done by the Council,

otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 members and of which he is not a director shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Council.

(2) A disclosure by a member at a meeting of the Council that he -

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

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shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body, or to that person, which may arise after the date of the disclosure.

(3) The Council shall cause particulars of all disclosures made under this section to be recorded in a book kept for the purpose and that book shall be open at all reasonable times to the inspection of any person on payment of such fee, if any, as is determined from time to time by the Council.

(4) After a member has, or shall be deemed to have, disclosed the nature of an interest in a matter or thing pursuant to this section, he shall not, unless the Council (in the absence of the member) otherwise determines -

- (a) be present during any deliberation of the Council, or take part in a decision of the Council, in relation to that matter; or
- (b) perform a function under this Act in relation to that thing.

(5) A reference in this section to the Council includes a reference to a committee of the Council.

11. MEETINGS OF COUNCIL

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

- (a) may convene a meeting of the Council and shall comply with any resolution of the Council relating to the convening of meetings; and
- (b) shall convene a meeting of the Council if required to do so by not less than 50% of the members for the time being holding office.

(2) At a meeting of the Council -

- (a) 50% of the members for the time being holding office constitute a quorum;
- (b) questions arising shall be determined by a majority of the votes of the members present and voting and, in the event of an equality of votes, the matter shall be deferred for consideration at the next meeting of the Council to be held on a subsequent day and, in the event of an equality of votes at that next meeting, the matter shall be taken to have been defeated; and
- (c) subject to this Act and the By-laws, the Council shall determine the procedure to be followed at or in connection with the meeting.

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12. PRESIDING AT MEETINGS

(1) Subject to subsection (2), the Chairman or, in his absence, the Deputy Chairman shall preside at all meetings of the Council at which he is present.

(2) In the absence of the Chairman or Deputy Chairman, the members present at a meeting of the Council shall elect an acting chairman and that person may exercise the powers and shall perform the functions of the Chairman for that meeting.

13. COMMITTEES

(1) The Council may establish such committees as it thinks fit.

(2) A person may be appointed as a member of a committee whether or not he is a member of the Council.

14. INSTITUTE TO PROVIDE ASSISTANCE TO COUNCIL

The Institute shall -

- (a) provide secretarial and administrative assistance to the Council; and
- (b) pay the costs and expenses reasonably incurred by the Council,

in the Council's exercise of its powers and performance of its functions.

Division 2 - Functions and Powers

15. FUNCTIONS OF COUNCIL

The functions of the Council are -

- (a) to govern and administer the affairs of the Institute;
- (b) to advise the Minister on -
 - (i) the co-ordination of the development of advanced education in the Territory;
 - (ii) the advanced education requirements of the Territory; and
 - (iii) the accreditation of advanced education courses in the Territory;
- (c) to liaise with advanced education bodies in the States and other Territories of the Commonwealth;

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- (d) to make arrangements for the accreditation of advanced education courses conducted in the Territory;
- (e) to authorize the issuing of awards for advanced education courses conducted in the Territory;
- (f) to consider such matters relating to the provision of advanced education in the Territory as the Council thinks fit or as the Minister refers to it for consideration or advice;
- (g) to investigate, consider, undertake research, report and make recommendations with respect to such matters relating to advanced education as the Minister refers to it;
- (h) to make to the Minister such recommendations as it thinks fit in relation to a matter considered by it; and
- (j) such other functions as are imposed on it by or under this or any other Act.

16. POWERS OF COUNCIL

(1) Subject to this Act, the Council has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

(2) Without limiting the generality of subsection (1), the Council may, with the approval of the Minister, make arrangements for the provision of advanced education elsewhere than at the Institute.

(3) Arrangements under subsection (2) may make provision for the supervision of the advanced education courses provided in pursuance of the arrangements.

PART III - DARWIN INSTITUTE OF TECHNOLOGY

17. INSTITUTE

(1) Notwithstanding the repeal of Part VI of the *Education Act*, the Darwin Institute of Technology established by section 58 of that Act and in existence immediately before the commencement of this Act is continued in existence.

- (2) The Institute -
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal; and
 - (c) is capable, in its corporate name, of acquiring holding and disposing of real, leasehold and personal property and of suing and being sued.

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

18. COUNCIL IS GOVERNING BODY OF INSTITUTE

(1) The governing body of the Institute is the Council.

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

19. FUNCTIONS OF INSTITUTE

The functions of the Institute are to -

- (a) conduct an institution for the provision in Darwin and such other places as the Minister considers necessary or desirable of education and training of such kinds and in such fields of science, technology and trade, the arts, administration, commerce and other fields of knowledge or the application of knowledge, as the Council thinks fit; and
- (b) use the facilities and resources of the Institute to advance knowledge and skills in the fields in which the Institute is concerned.

20. POWERS OF INSTITUTE

(1) Subject to this Act, the Institute has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

(2) Without limiting the generality of subsection (1), the Institute may, for the purpose of carrying out its functions or exercising its powers, including powers conferred on it elsewhere in this Act -

- (a) enter into an arrangement with one or more universities or institutions of advanced, technical or further education, whether in or outside Australia, or with one or more of the States of the Commonwealth that administer education services, for the establishment in the Institute of courses of lectures or studies for degrees, diplomas, trade certificates or otherwise;
- (b) co-operate with other institutions that provide facilities for teaching or research;

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- (c) conduct such courses of study and instruction in advanced education and technical and further education as are approved by the Council;
- (d) establish such teaching, research or other units within the Institute as the Council thinks fit;
- (e) make such awards in relation to the passing of examinations or otherwise in relation to the education and training provided by the Institute as is provided for by the By-laws;
- (f) enter into contracts;
- (g) purchase, take on lease or otherwise acquire and sell, grant leases of or otherwise dispose of, real or personal property;
- (h) create, develop, apply for, obtain and hold intellectual and industrial property and rights and enter into agreements or arrangements for the commercial exploitation of any such property and rights on such terms as to royalties, lump sum payments or otherwise as the Council thinks fit;
- (j) erect buildings;
- (k) occupy, use and control any land or building owned or held under lease and made available for the purposes of the Institute;
- (m) accept gifts, grants, bequests, devises and assignments made to the Institute, whether on trust or otherwise, and act as trustee of moneys or other property vested in the Institute upon trust; and
- (n) establish, manage and control halls of residence and other forms of student accommodation.

21. DIRECTOR

(1) Subject to this section, the Council shall, on such terms and conditions as it thinks fit, appoint a Director who shall, subject to the directions of the Council and the By-laws, be responsible to the Council for the administration of the Institute and the affairs of the Council.

(2) The Administrator may confirm or refuse to confirm an appointment made under subsection (1) or a term or condition in respect of such appointment.

(3) No appointment made under this section, or a term or condition in respect of any such appointment, shall have force or effect unless and until confirmed by the Administrator.

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22. APPOINTMENT OF STAFF

Subject to this Act and the By-laws, the Council may, on such terms and conditions as it thinks fit, appoint such academic and other staff as it thinks necessary for the purposes of the Institute.

23. CONSULTANTS MAY BE ENGAGED

The Institute may engage consultants to the Institute and make such arrangements to be provided with advice as it thinks fit.

PART IV - PROPERTY, FINANCE, AUDIT AND ANNUAL REPORT

24. EXCLUSION OF *FINANCIAL ADMINISTRATION AND AUDIT ACT*

The Institute is not a statutory corporation within the meaning or for the purposes of the *Financial Administration and Audit Act*.

25. FINANCIAL YEAR

Subject to the approval of the Treasurer, the Council may determine a date on which the financial year of the Institute ends.

26. FEES

(1) Subject to this section, fees are payable to the Institute at such rates, for such courses of study or instruction of the Institute, for admission to such examinations conducted by the Institute and in relation to such other facilities or privileges of the Institute as are provided in the By-laws.

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

(3) The Council may exempt a student from the payment of the whole or any part of a fee otherwise payable by him if it considers that the payment of the whole or part of the fee, as the case may be, would cause substantial hardship to him.

27. INSTITUTE ACCOUNTS

(1) Subject to this Part and the approval of the Treasurer, the Council shall open and maintain such account or accounts with a bank or banks as it thinks fit.

(2) There shall be paid to the credit of the account or accounts referred to in subsection (1) all moneys received by the Institute.

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(3) Subject to the terms of a trust, money in an account referred to in subsection (1) shall be applied by or with the authority of the Council only for the purposes of the Institute.

28. PROPER ACCOUNTS TO BE KEPT

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

29. GIFTS, &c., AND TRUST FUNDS

In exercising its powers to acquire, hold, deal with or dispose of real or personal property, the Institute may agree to and carry out the conditions of a gift, grant, bequest, devise, purchase, lease or other means whereby it acquires or holds property and the Council may create and administer such trust fund or funds in connection therewith, or for any other purpose, as it thinks fit.

30. INVESTMENT

(1) The Council may establish such investment common funds for the collective investment of trust or other moneys of or in the custody of the Institute as it thinks fit.

(2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from the investment common fund the whole or any part of moneys of the Institute, trust moneys or other moneys held by or in the custody of the Institute.

(3) Subject to subsections (4) and (5), the Council shall periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) Where moneys received by the Council to be expended for a stated purpose have been brought into an investment account but cannot, or will not immediately, be expended for that purpose, the Council may pay into the general funds of the Institute the whole or any part of that part of the income of that investment common fund that is attributed to the participation of those moneys in that fund and which are not required for that stated purpose.

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(5) The Council may, as it thinks fit, add such portion of the income of an investment account as it thinks fit to the capital of the common fund or use such portion of that income as it thinks fit to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(6) Moneys of the Institute (whether forming part of a common fund or not), including moneys held on trust or subject to a condition, shall not be invested by the Council except in a class of investment approved by the Treasurer, and when a class of investment is so approved the Council may invest moneys of the Institute in investments of that class whether or not those investments are authorized trustee investments.

(7) A power conferred on the Council by this section, or by a by-law relating to investment of property, shall not be exercised by the Council in relation to a trust fund or other moneys where -

- (a) the investment creating the trust expressly directs to the contrary; or
- (b) the exercise of the power would constitute a breach of a condition under which the fund or moneys in question was or were acquired.

31. VARIATION OF TERMS OF TRUST OR GIFT

(1) In this section "approved scheme" means a scheme, with or without modification, approved under subsection (3) by the Administrator.

(2) Where property is held by the Institute on terms requiring it or the income from the property to be applied for a purpose or purposes and -

- (a) the purpose or all or any of the purposes has or have been effected;
- (b) the purpose or all or any of the purposes has or have ceased to exist;
- (c) the purpose or all or any of the purposes has or have been adequately provided for by other means;
- (d) the purpose or all or any of the purposes is or are uncertain or cannot be identified or is or are not sufficiently defined;
- (e) it becomes impossible, impracticable or inexpedient to carry out the purpose or all or any of the purposes; or
- (f) the property or income from the property proves inadequate to carry out the purpose or all or any of the purposes,

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the Council may, subject to this section, cause to be prepared a scheme by which that property or any part or residue of that property shall be held on terms requiring the property or the income from the property to be applied for the purpose or purposes designated in the scheme.

(3) A scheme under subsection (1) shall be submitted by the Council to the Administrator and on receipt of the scheme the Administrator may -

(a) by notice in the *Gazette* -

(i) approve the scheme; or

(ii) approve the scheme with such modifications as he thinks fit; or

(b) by notice in writing to the Council, refuse to approve the scheme.

(4) Where, in relation to property or a part or residue of property held by the Institute, there is in existence an approved scheme, the property, part or residue shall, in accordance with the approved scheme, be diverted from the purpose or purposes for which it was held and shall be held for the purpose or purposes as designated in the approved scheme.

(5) In selecting a purpose for an approved scheme or for an amendment of an approved scheme, the Council shall have a preference for a purpose which, in its opinion, is as nearly similar to the purpose or purposes for which the property concerned is, for the time being, held by the Institute as is consistent with useful and convenient achievement but such a scheme or amendment shall not be invalidated or otherwise prejudiced by reason only that another purpose may have more properly been selected by the Council in accordance with this subsection.

(6) On its publication in the *Gazette* judicial notice shall be taken of an approved scheme and of all amendments of the scheme.

(7) The powers conferred by this section are in addition to any other power or right exercisable in law in relation to property held by the Institute on trust.

32. FINANCIAL ACCOMMODATION

(1) For the purpose of providing financial accommodation for enabling the Institute to perform its functions, the Council may, with the prior approval of the Treasurer, obtain advances by way of loan -

(a) from the Treasurer;

(b) on overdraft from a bank; or

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- (c) from any other person, on such security at such rate of interest and subject to such other terms and conditions as the Council, with the approval of the Treasurer, thinks fit.

(2) Before entering into negotiations for the obtaining of an advance by way of loan on overdraft from a bank or from another person, the Council shall obtain the approval of the Treasurer to enter into such negotiations and, for the purpose of obtaining that approval, shall submit to the Treasurer such information as he requires.

33. BUDGET AND FINANCIAL INFORMATION

- (1) The Council shall -

- (a) in each financial year, adopt for the next following financial year a budget for all funds of the Institute, other than those to which paragraph (b) relates, and shall approve all amendments to the budget, and shall control the expenditure of the Institute so that it conforms as nearly as practicable to the approved budget; and

- (b) review annually funds available to the Institute by way of bequest, donation or special grant and the expenditure thereof, and shall, subject to the terms of a trust and before any such expenditure is made, approve the proposed disposition of those funds.

(2) As soon as practicable after adopting or amending a budget under subsection (1)(a), the Council shall forward to the Treasurer a copy of the budget or amendment, as the case may be.

(3) The Treasurer may at any time require the Council to provide him with such information as, in his opinion, is necessary to enable him to accurately assess the financial affairs of the Institute and the Council shall provide that information accordingly.

34. AUDIT AND ANNUAL REPORTS

Sections 67 and 68 of the *Financial Administration and Audit Act* apply to and in relation to the Institute as if the Institute were a prescribed statutory corporation within the meaning and for the purposes of those sections.

PART V - MISCELLANEOUS

35. TRADING, &c., CORPORATIONS

The Council may, with the approval of the Treasurer, establish by incorporation in the Territory or elsewhere, or participate in the establishment of, such trading, research or other corporations as it thinks fit for the

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purpose of promoting or assisting, or in connection with the functions and powers of, the Institute.

36. DELEGATION

(1) The Council, and the Director subject to the directions of the Council, may, by instrument in writing, delegate to a person any of its or his powers and functions under this Act, other than this power of delegation or, in the case of the Council, the power to make by-laws or rules.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Council or the Director, as the case may be.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Council or the Director.

(4) Where a power or function is delegated under this section by the Council to a member of the staff of the Institute, that power or function shall be deemed to have been delegated to the Director also.

37. TERMS OF CONTRACT AND EXECUTION OF DOCUMENTS

(1) A deed, instrument, contract or agreement relating to any property or matter which, if made or executed by an individual, would by law be required to be in writing under seal, may be made on behalf of the Institute in writing under its common seal.

(2) An instrument, contract or agreement relating to any property or matter which, if made by or between individuals, would be required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Institute in writing by a person acting under the authority, express or implied, of the Council.

(3) A contract relating to any property or matter which, if made between individuals, would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of the Institute by a person acting under the authority, express or implied, of the Council.

(4) A contract entered into or an instrument, contract or agreement signed in relation to any property or obligation of the Institute shall be deemed to have been entered into or signed with the express authority of the Council if it is entered into or signed in accordance with a resolution of the Council for the time being in force.

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38. PROTECTION OF MEMBERS, &c.

No action or proceeding, civil or criminal, shall be commenced or lie against a member for or in respect of an act or thing done or omitted to be done in good faith by -

- (a) him in his capacity as a member; or
- (b) the Institute or the Council,

in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

39. RE-ELECTION OR RE-APPOINTMENT

Nothing in this Act shall prevent a person from being, at any time, re-appointed or re-elected to an office or place under this Act if he is otherwise qualified or capable of holding that office or place.

40. VALIDITY OF PROCEEDINGS

No proceedings of the Council or of a committee of the Council, and no act done by the Director or a delegate of the Council or the Director, shall be invalidated by reason only of -

- (a) a defect in the appointment or election of, or of a disqualification of, a member or such a person;
- (b) a defect in the convening or conduct of a meeting of the Council or a committee of the Council;
- (c) there being a vacancy in the membership of the Council or a committee of the Council;
- (d) the fact that a person purporting to be a member of the Council or a committee of the Council by virtue of an office held by him did not hold that office;
- (e) the fact that a person purporting to be a member of the Council or a committee of the Council was not such a member; or
- (f) a contravention of or noncompliance with section 10 by a member of the Council or a committee of the Council.

41. NO DISCRIMINATION

The Institute shall not discriminate against or in favour of a person on the grounds of that person's sex, religion, race, physical disability or political beliefs.

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42. BY-LAWS

(1) The Council may make by-laws, not inconsistent with this Act, prescribing matters -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and in particular in relation to -

- (c) the method of election of members referred to in section 4(2)(d), (e) and (f), including procedures relating to nominating, enrolling and voting and the counting of votes and the declaration of polls;
- (d) the use and custody of the common seal of the Institute;
- (e) the manner and time of convening, holding and adjourning the meetings of the Council, voting at such meetings, the powers and duties of the Chairman, the conduct and record of the business at meetings of the Council, the appointment of committees of the Council, and the quorum, powers and duties of such committees;
- (f) the admission of students to the Institute;
- (g) the promotion and extension of Institute teaching and research;
- (h) the granting of degrees, diplomas, certificates, and honours by the Institute;
- (j) the granting of fellowships, scholarships, exhibitions, bursaries and prizes by the Institute;
- (k) the admission of students of other educational institutions to a corresponding status of the Institute or of graduates of other educational institutions to a corresponding degree or diploma of the Institute without examination;
- (m) fees to be paid;
- (n) the establishment, management and control of libraries and museums in connection with the Institute;
- (p) the establishment, management and control of halls of residence established, and other accommodation provided, by the Institute;

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- (q) the affiliation, association or connection with the Institute of an educational or research establishment, wherever situated, to which the governing body of such establishment consents;
- (r) the use of the facilities of the Institute by students of other educational establishments and the public generally;
- (s) the control and investment of the property of the Institute, including property held on trust or subject to a condition;
- (t) the protection of the property of or under the control of the Institute from trespass, damage or misuse;
- (u) the regulation and control of access to, and the use of, land and buildings the property of or under the control of the Institute and the conduct of persons and the presence and use of vehicles thereon;
- (w) the terms and conditions of appointment of academic and other staff;
- (x) student discipline; and
- (y) the making of rules.

(2) A by-law referred to in subsection (1)(c) may provide for an election of a member to be conducted by and by agreement with the Chief Electoral Officer within the meaning of the *Electoral Act* and where it so provides the election shall be conducted in such manner, not inconsistent with the By-laws, as the Chief Electoral Officer thinks fit.

(3) Without limiting the generality of subsection (1), a by-law may -

- (a) provide, in the case of an offence of -
 - (i) bringing a vehicle onto or parking or standing a vehicle on a site in breach of a by-law;
 - (ii) driving a vehicle on a part of a site in breach of a by-law;
 - (iii) driving a vehicle on a part of a site at a speed in excess of a speed that, in relation to that part, is prescribed, determined by a method prescribed or fixed by a person authorized by a by-law so to do in respect of the site or that part;

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(iv) driving a vehicle on a part of a site contrary to a direction, whether given by a person authorized by a by-law so to do or by a traffic control device on the site; or

(v) doing on a site with or in respect of a vehicle such other act as is prescribed,

that the person who was in charge of the vehicle at the material time or the owner of the vehicle (whether or not he was in charge of the vehicle at the material time) shall be liable to be punished for the offence;

(b) define who is the owner of a vehicle for the purposes of the By-laws;

(c) provide for the removal or disposal of a vehicle -

(i) parked or left standing on a site in such a position as to obstruct, interfere with or cause danger to other vehicles on the site or to users of the site; or

(ii) apparently abandoned on a site; and

(d) prescribe the proof that is necessary or sufficient to establish a matter relevant to an offence created by the By-laws.

(4) A by-law referred to in subsection (3)(a) shall not be so construed that the owner of a vehicle and the person in charge of it at the time an offence was committed with or in respect of the vehicle shall both be liable for the one offence.

(5) In subsection (3), "site" means land or a building the property of or under the control of the Institute.

43. RULES

(1) The Council may make rules (not inconsistent with this Act or the By-laws) for carrying into effect all or any of the provisions of this Act or the By-laws.

(2) Rules shall be signed by a person authorized by the Council to sign them.

(3) Rules shall be published in such manner as provided for in the By-laws and shall take effect from the date of publication or, where another date later than the date of publication is provided for in the Rules, from the date so provided.

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(4) It is sufficient compliance with the requirements of subsection (3) if notice of the making of the Rules and the place where copies of the Rules may be obtained is published on a notice board nominated in the By-laws as the main notice board for the Institute.

(5) Notwithstanding section 63(11) of the *Interpretation Act*, section 63 of that Act does not apply to or in relation to the Rules.

44. PENALTIES UNDER BY-LAWS AND RULES

A by-law or a rule may impose, or authorize the Council or the Director or his delegate to impose, a penalty not exceeding -

- (a) in the case of a by-law - \$1,000; and
- (b) in the case of a rule - \$20,

for a contravention of or failure to comply with the By-laws or Rules and provide for the recovery of any such penalty.

45. TRANSITIONAL

(1) A person who was, immediately before the commencement of this Act, a member of the former council by virtue of having been appointed or elected under section 41(2)(a), (e), (f) or (g) of the *Education Act* as then in force shall, subject to this Act, be a member of the Council established by this Act for the unexpired period of his term of office under that Act as if he had been appointed or elected under section 41(2)(e), (d), (f), or (g), as the case may be, of this Act.

(2) Where before the commencement of this Act a person had been elected under section 41(2)(e), (f) or (g) of the *Education Act*, as then in force, as a member of the former council in respect of a period which, on that commencement, had not yet commenced, that person shall, on the commencement of the period in respect of which he was elected, be a member of the Council under this Act as if he had been so elected under section 4(2)(e), (d), or (f), as the case may be, of this Act, except that his term of office shall expire on 31 December 1986.

(3) The person who was, immediately before the commencement of this Act, the Director of the Institute shall, subject to this Act, continue as the Director under this Act after that commencement, and be employed on the same terms and conditions as applied to and in relation to him immediately before that commencement, as if he had been appointed under this Act.

