



NORTHERN TERRITORY OF AUSTRALIA

No. 1 of 1985

AN ACT

To amend the *Education Act*

[Assented to 11 March 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:

1. SHORT TITLE

This Act may be cited as the *Education Amendment Act 1985*.

2. PRINCIPAL ACT

The *Education Act* is in this Act referred to as the Principal Act.

3. DEFINITIONS

Section 4 of the Principal Act is amended -

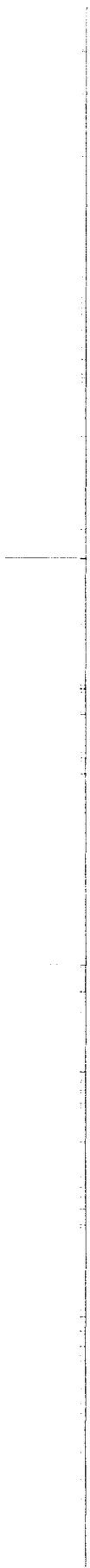
- (a) by omitting the definition of "Post-school Advisory Council"; and
- (b) by inserting after the definition of "standard" the following:

"Technical and Further Education Advisory Council" means the Technical and Further Education Advisory Council established by section 16(1);".

4. MINISTER TO PROVIDE EDUCATION SERVICES

Section 6(4) of the Principal Act is amended by omitting paragraphs (g) and (h) and substituting the following:

- "(g) having sought the advice of the relevant Advisory Council, make provision for awards in relation to the passing of examinations or otherwise in relation to education services;
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- (h) make provision for the granting of scholarships, bursaries and prizes in relation to education services;
- (j) undertake or cause to be undertaken research into matters related to training for industry, other than apprenticeship training, including the special training needs of persons by reason of their background and otherwise in relation to the acquisition by those persons of employment skills, and plan for training for industry accordingly; and
- (k) approve arrangements or make such arrangements as he thinks fit for the preparation and conduct of training courses, other than apprenticeship training courses, for industry.

"(5) Without limiting the generality of sub-section (4)(k), the power of the Minister to make and approve arrangements for the preparation and conduct of training courses includes the power to -

- (a) determine or approve the content of training courses for industry, including the theoretical and practical instruction to be given in such courses;
- (b) determine or approve the standards of proficiency or knowledge to be reached by students in training courses for industry;
- (c) determine or approve the manner of certification or accreditation accorded to students successfully completing training courses for industry;
- (d) provide or arrange for the provision of financial assistance to such persons, bodies or institutions as he thinks fit in relation to the provision of training courses for industry;
- (e) provide or arrange for the provision of scholarships, bursaries and prizes in relation to training courses for industry; and
- (f) co-ordinate the provision of training courses for Aborigines.

"(6) The Minister shall, in exercising his powers under sub-sections (4)(k) and (5), endeavour to ensure that appropriate recognition is given to training courses referred to in this section by such authorities in States and other Territories as are concerned with training for industry.

"(7) A determination or approval under sub-section (5)(a), (b) or (c) shall be published in the *Gazette*."

5. DELEGATED POWER

Section 9 of the Principal Act is amended -

- (a) by inserting after sub-section (2) the following:

"(2A) Where the Minister has, under section 8(3), directed the Secretary to perform the function conferred under section 6(4)(f) upon the Minister in respect of technical and further education courses provided in the Territory, the Secretary may, by instrument in writing, delegate that function to the council of a post-school institution within the meaning of Part IX in respect of such courses provided by that institution.";

- (b) by inserting in sub-section (3) after "sub-section (2)" the words "or (2A)"; and

- (c) by inserting in sub-section (4) after "sub-section (2)" the words "or (2A)".

6. COMPOSITION OF BOARD AND APPOINTMENT OF MEMBERS

Section 10C of the Principal Act is amended -

- (a) by omitting, from sub-section (2), paragraph (b) and substituting the following:

"(b) 2 shall be chosen by the Administrator, from nominations received by him from the Institute within the meaning of Part VI, of whom -

- (i) one shall be from the Technical and Further Education sector; and

- (ii) one shall be from the Advanced Education sector,

of the Institute"; and

- (b) by omitting, from sub-section (2)(c), sub-paragraphs (v), (vi) and (vii) and substituting the following:

"(v) the Northern Territory Teachers Federation; and

(vi) the University Planning Authority established under the *University (Interim Arrangements) Act*, ".

7. DISMISSAL OF MEMBERS

Section 10G(3)(b) of the Principal Act is amended by omitting "Darwin Community College" and substituting "Institute".

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8. FUNCTIONS OF THE BOARD

Section 10J(e) of the Principal Act is amended by omitting "the Vocational Training Commission established under the *Vocational Training Commission Act* and other".

9. REPEAL AND SUBSTITUTION

Division 2 of Part III of the Principal Act is repealed and the following substituted:

*"Division 2 - Technical and Further
Education Advisory Council*

"15. DEFINITIONS

"In this Division, unless the contrary intention appears -

'Chairman' means the Chairman of the Council;

'Council' means the Technical and Further Education Advisory Council established by section 16(1);

'Deputy Chairman' means the Deputy Chairman of the Council;

'member' means a member of the Council.

"16. ESTABLISHMENT AND COMPOSITION

"(1) There shall be a Council, to be known as the Technical and Further Education Advisory Council.

"(2) The Council shall consist of 12 members, of whom -

(a) one shall be the Secretary or his nominee;

(b) one shall be the employee within the meaning of the *Public Service Act* in the Department of Education who, in the opinion of the Secretary, is primarily responsible for carrying out that department's functions in relation to technical and further education;

(c) one shall be the Departmental Head within the meaning of the *Public Service Act* of the department primarily responsible for apprentices and related matters or his nominee;

(d) one shall be the Director within the meaning of Part VI or his nominee; and

(e) 8 shall be persons appointed, in accordance with sub-section (3), by the Minister.

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"(3) Of the members appointed under sub-section (2)(e) -

- (a) subject to sub-section (4), one shall be from the Council within the meaning of Part VI chosen by the Minister from nominations received by him from that Council;
- (b) subject to sub-section (4), one from each of -
 - (i) the Council of the Community College of Central Australia;
 - (ii) the Council of the Katherine Rural College; and
 - (iii) the Council of the Batchelor College,shall be chosen by the Minister from nominations received by him from those respective bodies;
- (c) 2 shall be drawn from employer associations in the Territory; and
- (d) 2 shall be drawn from trade unions in the Territory.

"(4) A nomination referred to in sub-section (3)(a) or (b) by a body referred to in that sub-section is not required to be a member of the body but, in the case of a nomination referred to in sub-section (3)(a), the nomination shall not be the Director within the meaning of Part VI.

"(5) The exercise of a power or the performance of a function by the Council is not affected by reason only of there being a vacancy in the membership of the Council.

"17. PERIOD OF APPOINTMENT

"(1) Subject to this Division, a member appointed under section 16(2)(e) holds office until the expiration of such period, not exceeding 3 years, as is specified in his instrument of appointment, but is eligible for re-appointment.

"(2) Where a period of appointment is not specified in an instrument of appointment of a member referred to in sub-section (1), the member holds office, subject to this Division, for 3 years.

"18. CHAIRMAN AND DEPUTY CHAIRMAN

"(1) The Secretary or his nominee shall be the Chairman of the Council and the member, or that member's nominee, referred to in section 16(2)(b), shall be the Deputy Chairman of the Council.

"(2) Where he is present, the Chairman, or in his absence, the Deputy Chairman, shall preside at meetings of the Council.

"18A. RESIGNATION OF MEMBERS

"A member appointed under section 16(2)(e) may resign his office by writing signed by him and delivered to the Minister.

"18B. DISMISSAL OF MEMBERS

"(1) The Minister may terminate the appointment of a member appointed under section 16(2)(e) for inability, inefficiency, misbehaviour or physical or mental incapacity.

"(2) Where a member appointed under section 16(2)(e) -

- (a) is absent, except on leave granted by the Council, from 3 consecutive meetings of the Council; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate the appointment of the member.

"(3) Where the Minister receives a request to terminate the appointment of a member appointed under section 16(2)(e) from, where the member holds office as a member by virtue of having been nominated under -

- (a) section 16(3)(a) - the Council within the meaning of Part VI; or
- (b) section 16(3)(b) - the body referred to in that section which nominated the member,

the Minister shall terminate the appointment of the member.

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"18C. MEETINGS OF COUNCIL

"(1) Subject to sub-sections (2) and (3), the Chairman shall call such meetings of the Council as are necessary for the performance of its functions.

"(2) The Chairman shall, not later than 28 days after receiving a written notice signed by not less than 6 members requesting a meeting of the Council to be held, call a meeting of the Council.

"(3) The Minister may at any time direct the Chairman to convene a meeting of the Council and the Chairman shall convene a meeting accordingly.

"(4) At a meeting of the Council -

- (a) the Chairman or Deputy Chairman and 6 other members shall constitute a quorum;
- (b) questions arising shall be determined by a majority of the votes of the members present and voting, excluding the member presiding at the meeting, but, in the event of an equality of votes, the member presiding at that meeting shall have a casting vote; and
- (c) subject to this Division, the Council shall determine the procedure to be followed at or in connection with the meeting.

"(5) The Council shall keep records of its meetings.

"18D. FUNCTIONS OF COUNCIL

"The functions of the Council are to advise the Minister on -

- (a) such matters relating to technical and further education as it thinks fit or as the Minister refers to it for consideration and advice;
- (b) annual and triennial funding of technical and further education, both capital and recurrent;
- (c) accreditation of technical and further education award and non-award courses;
- (d) the conduct of training activities for industry; and
- (e) training of Aborigines for employment.

"18E. CONFIDENTIALITY

"A member shall not disclose information obtained in the course of his duties as a member unless the disclosure is -

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- (a) made in the course of his duties as a member;
and
- (b) authorized by the Council.

"18F. REPORTS

"(1) The Council shall, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report on its activities during the year ending on that date.

"(2) The Minister shall cause a copy of each report furnished to him under sub-section (1) to be laid before the Legislative Assembly within 3 sitting days of the Legislative Assembly after the report has been so furnished."

10. GENERAL POWER TO ESTABLISH ADVISORY COUNCILS

Section 19 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "Post-school Advisory Council" and substituting "Technical and Further Education Advisory Council"; and
- (b) by omitting from sub-section (4) "of the Darwin Community College established under section 44" and substituting "within the meaning of Part VI".

11. OPERATION OF ADVISORY COUNCILS

Section 20 of the Principal Act is amended by omitting "the Post-school Advisory Council" (twice occurring) and substituting "the Technical and Further Education Advisory Council".

12. REPEAL AND SUBSTITUTION

Part VI of the Principal Act is repealed and the following substituted:

"PART VI - HIGHER EDUCATION

"Division 1 - Definitions

"40. DEFINITIONS

"In this Part, unless the contrary intention appears -

'Chairman' means the Chairman of the Council appointed under section 45(1);

'Council' means the Northern Territory Council of Higher Education established by section 41(1);

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'Deputy Chairman' means the Deputy Chairman of the Council appointed under section 45(2);

'Director' means the Director of the Institute;

'higher education' means advanced education and university education;

'Institute' means the Darwin Institute of Technology established by section 58(1);

'member' means a member, within the meaning of section 41(2), of the Council;

'Rule' means a rule made under section 60G by the Council.

"Division 2 - Establishment and Constitution of Council

"41. NORTHERN TERRITORY COUNCIL OF HIGHER EDUCATION

"(1) There is established by this Part a Council by the name of the Northern Territory Council of Higher Education.

"(2) The Council shall consist of -

- (a) not more than 10 persons appointed by the Administrator;
- (b) the Planning Vice-Chancellor, within the meaning of the *University (Interim Arrangements) Act*, or his nominee;
- (c) the Chairman of the Technical and Further Education Advisory Council or his nominee;
- (d) the Director;
- (e) one member of the staff of the Institute elected by that staff;
- (f) 2 full-time members of the teaching staff of the Institute elected by that teaching staff; and
- (g) 2 students of the Institute elected by the students of the Institute.

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

"(4) The term of office of a member other than the Director shall be as provided by this Part, but such a member is, subject to this Part, eligible for reappointment or re-election.

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"42. MEMBERS APPOINTED BY ADMINISTRATOR

"A member appointed in accordance with section 41(2)(a) by the Administrator shall be appointed to hold office, subject to this Part, for such period, not exceeding 4 years, as the Administrator thinks fit.

"43. MEMBER ELECTED BY STAFF OR TEACHING STAFF

"(1) A member elected by the staff or the teaching staff of the Institute shall hold office, subject to this Part, for 12 months.

"(2) Where a member elected by the staff or the teaching staff of the Institute has ceased to hold office before the expiration of his term of office, the Chairman may, having regard to the length of the unexpired part of that term of office, direct that a member of that staff or teaching staff be elected by that staff or teaching staff, as the case may be, to hold office from the date of his election until the expiration of that term.

"(3) A member elected by the staff or the teaching staff of the Institute ceases to be a member if he ceases to be a member of that staff or teaching staff, as the case may be.

"44. MEMBER ELECTED BY STUDENTS

"(1) A member of the Council elected by the students of the Institute shall hold office, subject to this Part, for 12 months.

"(2) Where a member elected by the students of the Institute has ceased to hold office, the Chairman may, having regard to the length of the unexpired part of that term of office, direct that a student of the Institute be elected by the students of the Institute to hold office from the date of his election until the expiration of that term.

"(3) Except as otherwise provided by the Rules, a member elected by the students of the Institute ceases to be a member if the Council determines that he has ceased to be a student of the Institute.

"45. CHAIRMAN AND DEPUTY CHAIRMAN OF COUNCIL

"(1) The Administrator shall, from time to time, as the occasion requires, appoint a member referred to in section 41(2)(a) to be the Chairman of the Council.

"(2) The Council shall, from time to time, as the occasion requires, appoint a member to be the Deputy Chairman of the Council.

"(3) A member appointed as Chairman or Deputy Chairman holds office as Chairman or Deputy Chairman -

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(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 his appointment; or

(b) where no period is so fixed, until the expiration of his term of office as a member that is current at the time of his appointment,

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

"(4) A person is eligible to be reappointed as the Chairman or Deputy Chairman.

"46. DISQUALIFICATIONS

"A person who -

(a) is an undischarged bankrupt or a person in respect of whom there is in operation a composition, deed of arrangement or deed of assignment with his creditors under a law relating to bankruptcy; or

(b) is under sentence of imprisonment for an offence,

is not capable of becoming a member.

"47. VACATION OF OFFICE

"(1) If a member other than the Director -

(a) becomes a person referred to in section 46(a) or (b);

(b) is absent without leave of the Council from 3 consecutive meetings of the Council; or

(c) without reasonable excuse, fails to comply with his obligations under sub-section (2),

the Administrator shall terminate the appointment of the member.

"(2) A member who is directly or indirectly interested in a contract made or proposed to be made by the Institute, otherwise than as a member of, and in

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common with the other members of, an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

"(3) A disclosure under sub-section (2) shall be recorded in the minutes of the Council and the member -

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

"(4) Where an interest referred to in sub-section (2) is patent, that sub-section does not apply in relation to that interest but sub-section (3) applies as if there had been a disclosure in accordance with sub-section (2).

"(5) The Administrator may terminate the appointment of a member, other than the Director, from office on the ground of misbehaviour or physical or mental incapacity.

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

"48. MEETINGS OF COUNCIL

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

- (a) may convene meetings of the Council, and shall comply with any resolution of the Council with respect to the convening of meetings; and
- (b) shall, within 7 days after receipt of a written request signed by not less than 4 members, convene a meeting of the Council.

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

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

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

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

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

"(7) Subject to sub-section (8), all questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting and, for that purpose, the member presiding at the meeting has a deliberative vote only.

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

"49. VALIDITY OF PROCEEDINGS

"No act or proceeding of the Council, or of the members of any committee of the Council, is invalidated by reason of -

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

"50. CONFIDENTIALITY

"A member shall not disclose information obtained in the course of his duties as a member unless the disclosure is -

- (a) made in the course of his duties as a member; and
- (b) authorized by the Council.

"51. PROTECTION OF MEMBERS, &c.

"A member or person acting with the authority of the Council is not personally liable in respect of any matter or thing done by the member or person if the matter or thing was done in good faith for the purpose of exercising the powers or performing the functions of the Council.

"52. INSTITUTE TO PROVIDE ASSISTANCE TO COUNCIL

"The Institute shall -

- (a) provide secretarial and administrative assistance to the Council; and

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- (b) pay the costs and expenses reasonably incurred by the Council,

in the Council's exercise of the powers and performance of the functions conferred or imposed upon it by this Part.

"Division 3 - Functions and Powers of Council

"53. FUNCTIONS OF COUNCIL

"(1) The functions of the Council are -

(a) to advise the Minister on -

- (i) the co-ordination of the development of higher education in the Territory;
- (ii) the higher education requirements of the Territory; and
- (iii) the accreditation of advanced education courses in the Territory;

(b) to liaise with the higher education bodies in the States and the Commonwealth;

(c) to make arrangements for the accreditation of advanced education courses in the Territory;

(d) to authorize the issuing of awards for advanced education courses conducted in the Territory;

(e) to consider such matters relating to the provision of higher education in the Territory as the Council thinks fit or as the Minister refers to it for consideration or advice;

(f) to investigate, consider, undertake research, report and make recommendations, with respect to such matters relating to higher education, as the Minister refers to it; and

(g) to make to the Minister from time to time such recommendations as it thinks fit with respect to a matter considered by it.

"(2) The Council shall be the governing body of the Institute.

"(3) The Council may, with the approval of the Minister, make arrangements for the provision of advanced education elsewhere than at the Institute.

"(4) Arrangements under sub-section (3) may make provision for the supervision of the advanced education courses provided in pursuance of the arrangements.

"54. POWERS OF COUNCIL

"Subject to this Part, 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.

"55. DELEGATION

"(1) The Council may, by resolution -

(a) delegate to a member; or

(b) with the approval of the Minister, delegate to a person other than a member,

any of its powers and functions under this Part, other than this power of delegation.

"(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Part, be deemed to have been exercised or performed by the Council.

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

"56. MINISTERIAL CONTROL

"In the exercise of its powers and the performance of its functions, the Council is subject to the directions of the Minister.

"57. REPORTS

"Where a report under section 68(1) of the *Financial Administration and Audit Act* is required by section 58(4) to be prepared for submission to the Minister by the Institute, the Council shall include in the report details of its activities during the financial year to which that report relates in so far as those activities are not already included in that report in respect of the operations of the Institute.

"Division 4 - Darwin Institute of Technology

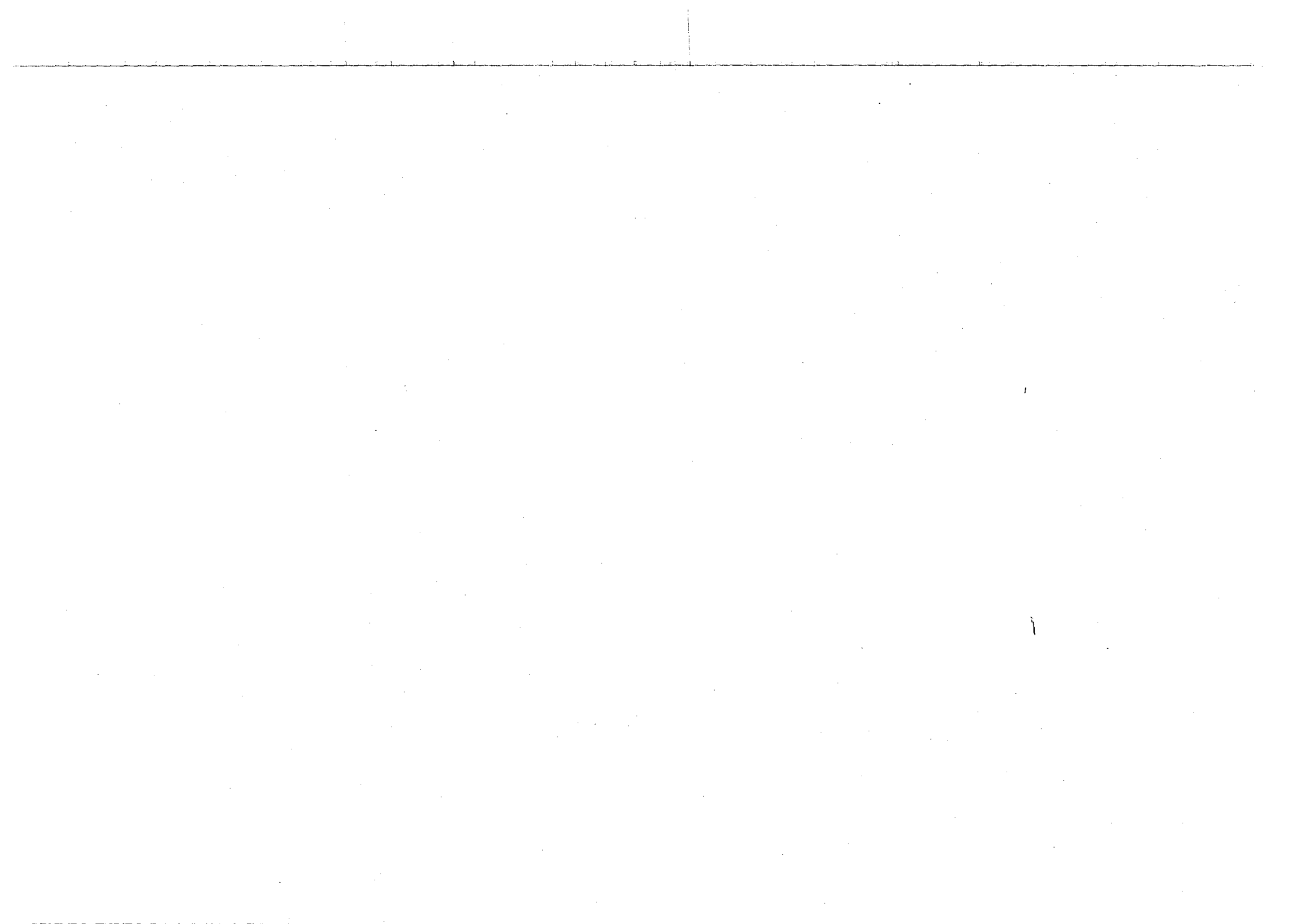
"58. DARWIN INSTITUTE OF TECHNOLOGY

"(1) There is established by this Part an Institute by the name of the Darwin Institute of Technology.

"(2) The Institute -

(a) is a body corporate with perpetual succession;

(b) shall have a common seal; and



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- (c) is capable, in its corporate name, of acquiring, holding and disposing of real, leasehold and personal property and of suing and being sued.

"(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.

"(4) The Institute is a statutory corporation to which Divisions 1 and 2 of Part IV of the *Financial Administration and Audit Act* apply but those Divisions shall so apply subject to section 57.

"59. 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 of, or on behalf of, the Institute with the authority of the Council shall be deemed to have been done by the Institute.

"(3) The Council shall determine the design of the common seal of the Institute.

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

"60. FUNCTIONS OF INSTITUTE

"The functions of the Institute are -

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

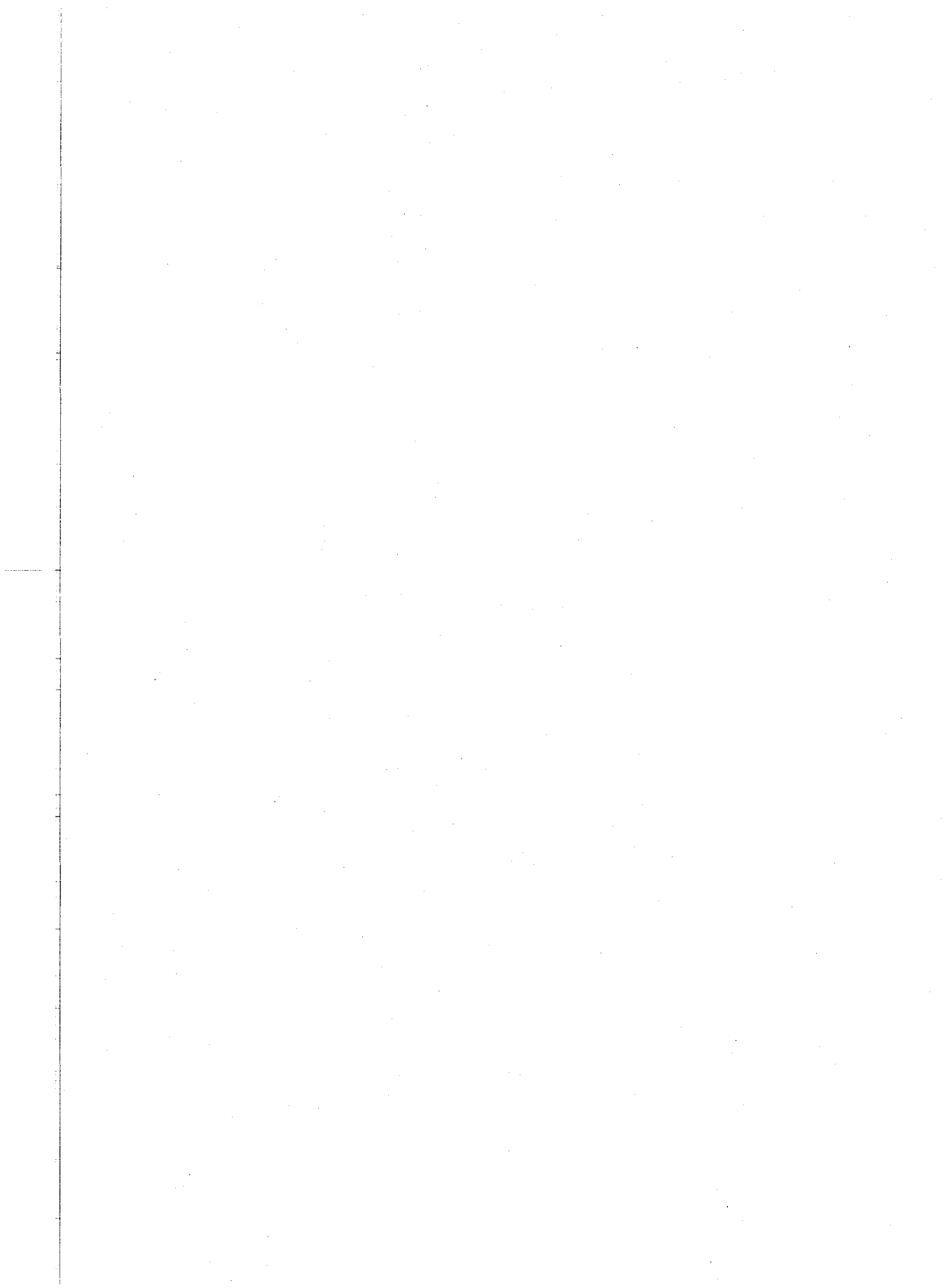
"60A. POWERS OF INSTITUTE

"(1) Subject to this Part, 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.

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"(2) Without limiting the generality of sub-section (1), the Institute may, for the purpose of carrying out its functions or exercising its powers, including powers conferred upon it elsewhere in this Part -

- (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 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;
- (c) conduct such courses of study and instruction, and at such levels, in the kinds and fields of education and training provided by the Institute as the Council thinks fit or as the Minister requires;
- (d) 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 Rules;
- (e) subject to sub-section (3), enter into contracts;
- (f) purchase, take on lease or otherwise acquire and sell, grant leases of or otherwise dispose of, real or personal property;
- (g) erect buildings;
- (h) occupy, use and control any land or building owned or held under lease and made available for the purpose of the Institute;
- (j) employ such persons as are necessary;
- (k) establish committees for the carrying out of any of its functions and appoint persons (including persons who are not members of the Council) to be members of such a committee;
- (m) accept gifts, devises, bequests 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;
- (n) establish halls of residence in association or affiliation with the Institute; and
- (p) provide and maintain libraries, laboratories and museum facilities in connection with the Institute.



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"(3) Notwithstanding anything contained in this Part or the *Financial Administration and Audit Act*, all moneys or property held by the Institute upon trust shall be dealt with in accordance with the powers and duties of the Institute as trustee.

"60B. DIRECTOR OF INSTITUTE

"(1) There shall be an office of Director of the Institute in the service of the Institute.

"(2) Subject to sub-section (3), the Council shall appoint, upon such terms and conditions as it thinks fit, a person to be the Director.

"(3) An appointment under sub-section (2), including the terms and conditions upon which it is made, shall have no force and effect unless and until it is approved by the Administrator.

"60C. DUTIES OF DIRECTOR

"The Director shall administer the affairs of the Institute.

"60D. TERMS AND CONDITIONS OF SERVICE OF STAFF

"Subject to any other law in force in the Territory, persons employed by the Institute shall be employed on such terms and conditions, including conditions with respect to the duration of the employment or with respect to dismissal from employment, as the Council, with the approval of the Administrator, determines.

"60E. CONTRACTS BY INSTITUTE

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

"(2) A contract to which sub-section (1) does not apply -

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

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"60F. FEES

"(1) Subject to this section, fees are payable to the Institute at such rates as the Council determines for such courses of study or instruction of the Institute, for admission to such examinations conducted by the Institute, and for such other facilities or privileges of the Institute as the Council determines.

"(2) A student who has been granted by the Institute, in accordance with the Rules, 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 grant an exemption from the payment of the whole or any part of a fee otherwise payable by a student if it considers that the payment of the whole or part of the fee, as the case may be, would cause substantial hardship for the student.

"60G. RULES

"(1) The Council may make Rules, not inconsistent with this Part, in relation to -

- (a) the management, good government and discipline of the Institute;
- (b) the imposition, by or on behalf of the Institute, of penalties upon students of the Institute or persons employed by the Institute for the contravention of, or failure to comply with, a rule with respect to a matter referred to in paragraph (a);
- (c) the election of members of the Council by the staff, teaching staff and students of the Institute;
- (d) admission of persons to courses of study or instruction of the Institute;
- (e) the courses of study or instruction of the Institute;
- (f) the holding of examinations of the Institute and the admission of persons to examinations of the Institute;
- (g) the awards of the Institute and the requirements for the making of the awards;
- (h) the granting by the Institute of scholarships, bursaries and prizes; and

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- (j) any other matter necessary or convenient for giving effect to this Part."

13. DEFINITIONS

Section 61 of the Principal Act is amended by omitting from the definition of "educational institution" the words "the Darwin Community College constituted under section 41" and substituting "the Institute within the meaning of Part VI".

14. GENERAL POWERS OF SECRETARY

Section 69(4) of the Principal Act is amended by omitting "the Darwin Community College constituted under section 41" and substituting "the Institute within the meaning of Part VI".

15. INTERPRETATION

Section 70 of the Principal Act is amended by omitting sub-section (1) and substituting the following:

"(1) In this Part, unless the contrary intention appears -

'Government school' includes a post-school institution;

'head teacher', in relation to a Government school which is a post-school institution, means the person to whom the administration and control of the institution is committed;

'post-school institution' means an institution -

(a) wholly established and wholly maintained under this Act by the Minister; and

(b) which provides education services, not being education services provided in a pre-school, primary school or secondary school, in an academic, vocational or practical discipline or which are of a recreational nature,

and includes those bodies respectively known as -

(c) the Community College of Central Australia;

(d) the Katherine Rural College; and

(e) the Batchelor College;

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'school council' means a school council established under section 71(1) by the Minister."

16. REPEAL

Section 75 and Part XI of the Principal Act are repealed and the following substituted:

"75. REGULATIONS

"(1) The Administrator may make regulations, 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.

"(2) Without limiting the generality of sub-section (1) -

- (a) regulations made for the purposes of Part IX may apply generally to a school council within the meaning of that Part or may apply to classes of such school councils as specified in the regulations; and
- (b) regulations may provide for penalties not exceeding \$200 for offences against the regulations."

17. DEFINITIONS

For the purposes of this section and sections 18 to 27 inclusive -

"College" means the College within the meaning of Part VI of the Principal Act as in force immediately before the commencement of this Act;

"Council" means the Council within the meaning of Part VI of the Principal Act as amended by this Act;

"Director" means the Director within the meaning of Part VI of the Principal Act as amended by this Act;

"former Council" means the Council within the meaning of Part VI of the Principal Act as in force immediately before the commencement of this Act;

"Institute" means the Institute within the meaning of Part VI of the Principal Act as amended by this Act;

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"Principal" means the Principal within the meaning of Part VI of the Principal Act as in force immediately before the commencement of this Act.

18. INSTITUTE TO REPLACE COLLEGE

On and from the commencement of this Act -

- (a) all real and personal property that, immediately before that commencement, was vested in the College shall vest in the Institute;
- (b) all moneys and liquidated and unliquidated claims that, immediately before that commencement, were payable to or recoverable by the College shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Institute;
- (c) all proceedings commenced before that commencement by the College and pending immediately before that commencement shall be deemed to be proceedings pending on that commencement by the Institute and all proceedings so commenced by any person against the College and pending immediately before that commencement shall be deemed to be proceedings pending on that commencement by that person against the Institute;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the College and in force immediately before that commencement shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Institute;
- (e) the Institute may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this section and for the prosecution of actions and proceedings so referred to as the College might have done but for the commencement of this Act;
- (f) the Institute may enforce and realize any security or charge existing immediately before that commencement in favour of the College and may exercise any powers thereby conferred on the College as if the security or charge were a security or charge in favour of the Institute;
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that commencement, were due or payable by, or recoverable against, the College shall be debts due by,

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money payable by and claims recoverable against, the Institute; and

- (h) all liquidated and unliquidated claims for which the College would, but for this Act, have been liable shall be liquidated and unliquidated claims, as the case may be, for which the Institute shall be liable.

19. SAVING OF MEMBERS, &c., OF FORMER COUNCIL

(1) The members of the former Council, other than the Principal, shall, on and from the commencement of this Act, be the members of the Council as though they had, on that commencement, and notwithstanding section 41(4) of the Principal Act as amended by this Act, been appointed or elected, as the case may be, under Part VI of the Principal Act as so amended, to the respective membership on the Council they held in the former Council for the remainder of the term of office they had left to serve as members of the former Council and, for that purpose, the instruments under the Principal Act as in force at any time before that commencement appointing or electing, as the case may be, those members to the former Council shall continue in force accordingly.

(2) The members of the Council who were the Chairman and Deputy Chairman respectively of the former Council shall, on and from the commencement of this Act, be the Chairman and Deputy Chairman respectively of the Council as though they had, on that commencement, been appointed under Part VI of the Principal Act as amended by this Act to be the Chairman and Deputy Chairman respectively of the Council for the remainder of the term of office they had left to serve as the Chairman and Deputy Chairman respectively of the former Council and, for that purpose, the instruments under the Principal Act as in force at any time before that commencement appointing those members to be the Chairman and Deputy Chairman of the former Council shall continue in force accordingly.

20. PRINCIPAL TO BE DIRECTOR

(1) Where, before the commencement of this Act, an appointment of a person as the Principal was purported to be made by a minister, that appointment shall, on the day on which it was purported to be made, be deemed to have been validly and effectually made in accordance with the Principal Act as in force on that day and all actions taken or things done by that person from the time of his purported appointment as Principal before the commencement of this Act shall be deemed to have been as validly and effectually taken or done as if he had been validly appointed on that day.

(2) Subject to Part VI of the Principal Act as amended by this Act, the person referred to in sub-section (1) shall, on and from the commencement of this Act, be the Director.

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21. SAVING OF EMPLOYEES, &c.

(1) Subject to Part VI of the Principal Act as amended by this Act, a person who was, immediately before the commencement of this Act, an employee of the College shall, on and from that commencement, be an employee of the Institute.

(2) A determination under section 57 of the Principal Act as in force at any time before the commencement of this Act and in force immediately before that commencement shall, on and from that commencement, be deemed to be -

(a) in so far as the determination relates to the Principal - a term or condition of an appointment of a person to be the Director under section 60B(2); and

(b) in any other case - a determination under section 60D,

of the Principal Act as amended by this Act.

22. SAVING OF RULES

Notwithstanding the repeal effected by section 12 or 16, a Rule -

(a) made under section 58 of the Principal Act as in force at any time before the commencement of this Act; or

(b) first-mentioned in section 76(6) of the Principal Act as in force at any time before that commencement,

and in force immediately before that commencement, shall continue in force after that commencement but may be amended or repealed by a Rule made under section 60G of the Principal Act as amended by this Act.

23. APPLICATION OF *FINANCIAL ADMINISTRATION AND AUDIT ACT* TO INSTITUTE

Notwithstanding the repeal effected by section 12, section 58(4) of the Principal Act as amended by this Act shall apply to and in relation to the Institute for the whole of the financial year 1984-85 as if, for that purpose, the Institute had been the College for the period commencing on 1 July 1984 to and including the day immediately before the day on which this Act came into operation.

24. SAVING OF AWARDS BY COLLEGE

Notwithstanding the repeal effected by section 12, where a student of the College has, before the commencement of this Act, met all the requirements under Part VI of the Principal Act as in force at any time before that commencement for the making of an award to him by the College but that award had not, before that commencement, been made by the College, the Institute shall, at such time as the Council thinks fit, make that award to him but that award shall be given in the name of the College, for which purpose the Institute shall be deemed to be the College and may, as the Council thinks fit, use the common seal of the College and take any other action the Council thinks fit to ensure that the award is given in the name of the College.

25. SAVING OF CERTAIN SCHOOLS AND INSTITUTIONS

Notwithstanding the repeal effected by section 16, a school or institution referred to in section 76(1) of the Principal Act as in force immediately before the commencement of this Act and deemed by that second-mentioned section to be a school or institution established under the Principal Act as so in force shall, where that school or institution was still in existence immediately before that commencement, be deemed, on and from the commencement of this Act, to be a school or institution established under the Principal Act as amended by this Act.

26. REFERENCES IN OTHER ACTS, &c.

On and from the commencement of this Act, a reference in -

- (a) an Act;
- (b) an instrument of a legislative or administrative character (an instrument appointing or electing a person as a member of the former Council excepted); or
- (c) another document not being an instrument of a legislative or administrative character,

to -

- (d) the College;
- (e) the former Council;
- (f) the Principal; or
- (g) an employee of the College,

shall be a reference to -

- (h) the Institute;

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- (j) the Council;
 - (k) the Director; or
 - (m) an employee of the Institute,
- respectively.

27. SAVINGS OF ACTIONS

An act, matter or thing done or omitted to be done before the commencement of this Act by, to or in respect of the College or the former Council shall, to the extent that but for that commencement that act, matter or thing would have had any force or effect, be deemed to have been done or omitted to be done by, to or in respect of the Institute or the Council, as the case may be.
