

**Training and Further Education Acts (Amendment)
Act 2000
Act No. 64/2000**

TABLE OF PROVISIONS

| <i>Section</i> | <i>Page</i> |
|---|-------------|
| 1. Purposes | 1 |
| 2. Commencement | 2 |
| 3. Principal Act | 2 |
| 4. New purposes | 3 |
| 5. Consequential amendments | 3 |
| 6. Ministerial directions | 5 |
| 7. Performance agreements | 5 |
| 8. Further consequential amendment | 6 |
| 9. Deputy Chairperson | 7 |
| 10. Chairs of Regional Councils | 7 |
| 11. New Part 4 inserted | 8 |
| | |
| PART 4—ADULT EDUCATION INSTITUTIONS | 8 |
| Division 1—Adult Multicultural Education Services | 8 |
| 44. Adult Multicultural Education Services | 8 |
| Division 2—Centre for Adult Education | 8 |
| 45. Centre for Adult Education | 8 |
| Division 3—Establishment of adult education institutions | 9 |
| 46. Adult education institutions | 9 |
| 47. Incorporation of governing boards | 10 |
| 48. Functions of governing boards | 13 |
| 49. Powers of governing boards | 14 |
| 49A. Accountability of governing boards | 15 |
| 49B. Board membership | 16 |
| 49C. Terms and conditions of office of members | 16 |
| 49D. Proceedings of governing boards | 18 |
| 49E. Reserve powers of Minister | 18 |
| 49F. Notice of proposal | 20 |
| 49G. Appointment of administrator | 21 |
| 49H. Saving of acts of board | 22 |
| 49I. Employment of staff | 22 |
| 49J. Minister may object to director appointment | 23 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| 49K. Staff conditions | 23 |
| 49L. Institution directors | 23 |
| 12. New Part 6 inserted | 24 |
| PART 6—TRANSITIONAL PROVISIONS FOR NEW ADULT EDUCATION INSTITUTIONS | 24 |
| Division 1—Preliminary | 24 |
| 53. Extra-territorial operation of this Part | 24 |
| Division 2—Transfer of staff of AMES | 25 |
| 54. Definition | 25 |
| 55. Determination of staff to be transferred | 25 |
| 56. Transfer of staff | 25 |
| 57. Superannuation | 26 |
| 58. Future terms and conditions of transferred employees | 27 |
| 59. Savings for Director of AMES | 27 |
| Division 3—Transfer of property, rights and liabilities of Council of Adult Education | 28 |
| 60. Definitions | 28 |
| 61. Property rights and liabilities transferred to Board of Centre for Adult Education | 28 |
| 62. Gifts etc. | 31 |
| 63. Staff of the Council | 32 |
| 64. Land of the Council | 33 |
| 65. Amendment of the Register | 34 |
| 66. Taxes | 34 |
| 13. New Schedule inserted | 34 |
| 14. Repeals | 34 |
| <hr style="border-top: 3px double #000;"/> | |
| ENDNOTES | 35 |



Victoria

No. 64 of 2000

Training and Further Education Acts (Amendment) Act 2000[†]

[Assented to 8 November 2000]

The Parliament of Victoria enacts as follows:

1. *Purposes*

The main purposes of this Act are to—

- (a) amend the **Adult, Community and Further Education Act 1991** to—
 - (i) provide for the establishment of adult education institutions and their governing boards;
 - (ii) transfer the staff employed in the Department of Education, Employment

and Training in the administration or provision of adult multicultural education services to an adult education institution to be known as Adult Multicultural Education Services which is to be governed by a body corporate to be known as the Board of Adult Multicultural Education Services;

(iii) make other miscellaneous amendments;

- (b) repeal the **Council of Adult Education Act 1981** and to transfer the staff, property and liabilities of the Council of Adult Education established under that Act to an adult education institution established under the **Adult, Community and Further Education Act 1991** to be known as the Centre for Adult Education to be governed by a body corporate to be known as the Board of the Centre for Adult Education;
- (c) repeal the **Employment Agents Act 1983**.

2. Commencement

- (1) Section 1, this section and sections 9, 10 and 14(2) come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision of this Act does not come into operation before 1 December 2001, it comes into operation on that day.

3. Principal Act

Training and Further Education Acts (Amendment) Act 2000
Act No. 64/2000

See
Act No.
91/1991
Reprint No. 3
as at
19 March
1998 and
amending Act
Nos 46/1998
and 12/1999.
LawToday:
www.dms.
dpc.vic.
gov.au

In this Act, the **Adult, Community and Further Education Act 1991** is called the Principal Act.

4. *New purposes*

In section 1 of the Principal Act after paragraph (c) **insert**—

- "(ca) to establish AMES and the Centre for Adult Education as adult education institutions and to provide for the governing boards of those adult education institutions; and
- (cb) to provide for the establishment of other adult education institutions and for their governing boards; and".

5. *Consequential amendments*

In the Principal Act—

- (a) in section 3—
 - (i) in paragraph (c) of the definition of "adult, community and further education" after "provided by" **insert** "an adult education institution established by or under this Act or";
 - (ii) the definition of "Council of Adult Education" is **repealed**;
 - (iii) **insert** the following definitions—
-

"adult education institution" means AMES or the Centre for Adult Education or an adult education institution established under section 46;

"AMES" means the adult education institution known as Adult Multicultural Education Services established under section 44;

"Board" means the Adult, Community and Further Education Board;

"Board of AMES" means the governing board of Adult Multicultural Education Services established by Order in Council under section 47;

"Board of the Centre for Adult Education" means the Board of the Centre for Adult Education established by Order in Council under section 47;

"Centre for Adult Education" means the adult education institution known as the Centre for Adult Education established under section 45;

"governing board" means the governing board of an adult education institution established by Order in Council under section 47;

"Regional Council" means a Regional Council of Adult, Community and

Further Education established
under Part 3;';

(b) for section 8(c)(ii) **substitute**—

"(ii) the governing boards of adult education
institutions; and".

6. Ministerial directions

- (1) In section 10(1) of the Principal Act, after
"Regional Councils of Adult, Community and
Further Education" **insert** "or the governing
boards of adult education institutions, including
matters relating to the employment of staff by
those Councils or those governing boards".
- (2) After section 10(1) of the Principal Act **insert**—
"(1A) A direction under sub-section (1) may be
made so as to apply—
 - (a) generally or in specified cases or in a
specified class of cases or specified
classes of cases;
 - (b) at all times or at a specified time or
times."
- (3) In section 10(3) of the Principal Act for "and any"
substitute ", the governing board of an adult
education institution and a".

7. Performance agreements

- (1) In section 9(d) of the Principal Act, after
"Council" **insert** "or the governing board of an
adult education institution".
 - (2) At the end of section 11 of the Principal Act
insert—
-

"(2) The Board may enter into a performance agreement with the governing board of an adult education institution with respect to the functions of the governing board under this Act."

8. Further consequential amendment

In the Principal Act—

- (a) in section 13D(1) and (1A) after "body which is" **insert** "an adult education institution or";
- (b) in section 19(1)—
 - (i) for "13 members of the Board of whom" **substitute** "12 members of the Board";
 - (ii) in paragraph (a) **omit** "12 are";
 - (iii) paragraph (b) and the word "and" preceding it are **repealed**;
- (c) in sections 27 and 28(1)—
 - (i) paragraph (e) is **repealed**;
 - (ii) in paragraph (f) after "education" **insert** "including the governing board of an adult education institution";
- (d) in section 29—
 - (i) paragraph (c) is **repealed**;
 - (ii) in paragraph (d) after "education" **insert** "including the governing board of an adult education institution";
- (e) in section 35—

- (i) in sub-section (1)(e) and (f) for "or the Council of Adult Education" **substitute** "or an adult education institution";
- (ii) in sub-section (2)(a) for "the Council of Adult Education" **substitute** "the governing board of an adult education institution".

9. Deputy Chairperson

- (1) In section 21(1) of the Principal Act, **omit** ", other than the Chairperson".
- (2) For section 21(2) of the Principal Act **substitute**—
"(2) If—
 - (a) the Chairperson is—
 - (i) unable to perform his or her duties; or
 - (ii) absent from duty; or
 - (b) the office of Chairperson is vacant—
the person appointed under sub-section (1) to act in the place of the Chairperson is to preside."
- (3) For section 23(3) of the Principal Act **substitute**—
"(3) If the Chairperson and any person appointed under section 21(1) to act in the place of the Chairperson are absent, a member appointed by the members present at a meeting must preside."

10. Chairs of Regional Councils

In the Principal Act—

(a) in section 38(1) for "appointed Chairperson" **substitute** "elected as Chairperson and one shall be elected as Deputy Chairperson by the members of the Council";

(b) section 40(2) is **repealed**.

11. *New Part 4 inserted*

After section 43 of the Principal Act **insert**—

**"PART 4—ADULT EDUCATION
INSTITUTIONS**

**Division 1—Adult Multicultural Education
Services**

44. *Adult Multicultural Education Services*

- (1) There is established an adult education institution to be called Adult Multicultural Education Services.
- (2) The Board of AMES is the governing body of AMES and shall be constituted as a body corporate by Order in Council as provided for in Division 3 of this Part.
- (3) The Board of AMES has the functions and powers conferred on it by Division 3 of this Part and by Order in Council made under Division 3.

Division 2—Centre for Adult Education

45. *Centre for Adult Education*

- (1) There is established an adult education institution to be called the Centre for Adult Education.
- (2) The Board of the Centre for Adult Education is the governing body of the Centre for Adult

Education and shall be constituted as a body corporate by Order in Council as provided for in Division 3 of this Part.

- (3) The Board of the Centre for Adult Education has the functions and powers conferred on it by Division 3 of this Part or an Order in Council under Division 3.

Division 3—Establishment of adult education institutions

46. *Adult education institutions*

- (1) The Governor in Council may, on the recommendation of the Minister, by Order published in the Government Gazette—
- (a) create an adult education institution; or
 - (b) abolish an adult education institution; or
 - (c) amalgamate one or more adult education institutions; or
 - (d) change the name of an adult education institution—
- and amend the Schedule by—
- (e) inserting the name of a new or amalgamated adult education institution; or
 - (f) removing the name of an adult education institution; or
 - (g) changing the name of an adult education institution.

- (2) The Minister must not make a recommendation under sub-section (1) unless—
-

-
- (a) the governing board or the governing body (if any) of any institution or proposed institution concerned has made a request for the proposed order or has been consulted about the proposed order; and
 - (b) the Minister has consulted the Adult, Community and Further Education Board about the proposed order.
- (3) If an Order in Council changes the name of an institution under sub-section (1)—
- (a) the institution continues in existence under the new name so that its identity is not affected; and
 - (b) in an Act, in a subordinate instrument made under an Act or in any other document a reference to an institution under the former name must, except in relation to matters that occurred before the change of name, be construed as a reference to the institution under the new name.

47. *Incorporation of governing boards*

- (1) The Governor in Council may, on the recommendation of the Minister by Order—
- (a) establish a governing board to oversee and manage an adult education institution; or
 - (b) amalgamate a governing board with another governing board; or
 - (c) abolish a governing board; or
 - (d) change the name of a governing board; or

- (e) make provision or further provision for or with respect to the constitution, management structure, membership, objectives, powers, duties or functions of a governing board, the manner of appointment or the terms and conditions of appointment of members of a governing board; or
 - (f) make provision for the governing board to make rules for the government of the institution; or
 - (g) make provision for the governing board to delegate any of its powers and functions under this Act (except any powers or functions delegated to it under this Act) to a person employed at the institution or to a committee established by or under an Order in Council relating to the board; or
 - (h) amend any provision of a previous order relating to a governing board; or
 - (i) make provision for or with respect to anything that is consequential upon the making of an order including the rights and obligations or the assignment of any property (subject to any trusts) of any governing board referred to in the Order.
- (2) The Minister must not make a recommendation under sub-section (1) unless—
- (a) the governing board of the institution concerned has made a request for the proposed Order or has been consulted about the proposed Order; and
-

- (b) the Minister has consulted the Adult, Community and Further Education Board about the proposed Order.
 - (3) A governing board established under sub-section (1)—
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) is capable of acquiring, holding, dealing with or disposing of property for the purpose of performing its functions and exercising its powers; and
 - (e) is capable of doing and suffering anything that a body corporate may by law do and suffer and that is necessary or expedient for performing its functions and exercising its powers.
 - (4) If two or more governing boards previously incorporated under this Act are amalgamated under an Order under sub-section (1), any legal proceedings that might have been commenced or continued by or against any of the boards may be commenced or continued by or against the single governing board formed by the amalgamation.
 - (5) A change of name under an Order under sub-section (1) does not affect the identity of the governing board or any rights or obligations of the governing board or render defective any legal proceedings by or against the board, and any legal proceedings that might have been continued or commenced by or
-

against it by its former name may be continued by or against it by its new name.

48. *Functions of governing boards*

- (1) The functions of the governing board of an adult education institution are to—
- (a) oversee the institution and ensure that the institution is managed efficiently and effectively; and
 - (b) approve periodic management plans for the institution consistent with the plans and policies of the Adult, Community and Further Education Board; and
 - (c) provide the community served by the institution with efficient and effective adult, community, further education, vocational education and training, employment and other associated programs and services responsive to the needs of that community;
 - (d) consult with the relevant Regional Councils about the provision of these programs and services;
 - (e) make adequate arrangements for persons and groups which have not had or do not have adequate access to programs and services provided by the institution;
 - (f) generally the development and provision of adult, community, further education, vocational education and training, employment and other associated programs and services considered necessary for the objects of the adult education institution within
-

Victoria and outside Victoria, whether
in or outside Australia;

- (g) carry out any other function conferred
on the governing board by or under this
Act.
- (2) Without limiting the generality of sub-
section (1) a governing board may carry out
all or any of the following functions—
- (a) provide facilities or services for study,
research or education;
 - (b) undertake research, development,
counselling or other services for
commercial organisations;
 - (c) aid or engage in the development or
promotion of research by the institution
or the application or use of the results
of that research;
 - (d) prepare, publish or distribute or license
the use of literary or artistic work,
audio or audio-visual material or
computer software;
 - (e) seek or encourage gifts to the
institution or for institution purposes;
 - (f) promote or assist drama, music or the
visual arts.

49. Powers of governing boards

- (1) A governing board has power to do all things
that are necessary or convenient to be done
for or in connection with or, as incidental to,
the performance of its functions including
any function delegated to it.
- (2) Without limiting the generality of sub-
section (1) a governing board, for the

purpose of carrying out its functions under section 48(2), may—

- (a) with the prior written approval of the Minister, be a member of a company, association, trust or partnership;
- (b) with the prior written approval of the Minister, form or participate in the formation of a company, association, trust or partnership;
- (c) enter into a joint venture with another person or persons.

49A. *Accountability of governing boards*

- (1) A governing board must perform its functions and exercise its powers subject to—
 - (a) a performance agreement; and
 - (b) any economic or social objectives or industrial relations policies established from time to time by the Government of Victoria; and
 - (c) any Order in Council made under section 47; and
 - (d) any other requirements of this Act.
 - (2) A governing board must establish and keep full and complete books and accounts of all money received and paid by the board and must arrange for a continuous audit of the income and expenditure to be made at any intervals not exceeding one month that the Minister directs.
 - (3) The books and accounts referred to in subsection (2) must be kept in the form and manner approved by the Auditor-General.
-

49B. Board membership

- (1) An Order in Council under section 47 must provide for a governing board consisting of not less than 9 and not more than 15 persons of whom—
 - (a) not less than one half must be appointed by the Minister;
 - (b) one must be a staff member of the institution elected by staff of the institution;
 - (c) one must be a student of the institution elected by students of the institution;
 - (d) one must be the director of the institution;
 - (e) the remaining members must be persons with knowledge of or experience in the community or any industry served by the institution or in adult, community and further education or with special skills or knowledge relevant to the governing board appointed by the governing board by co-option.
- (2) A person who is a member of Parliament must not be appointed or elected to be a member of a governing board.

49C. Terms and conditions of office of members

- (1) The office of a member becomes vacant if—
 - (a) the member becomes bankrupt; or
 - (b) the member is found guilty of an offence which is, or which would if committed in Victoria be, an indictable offence; or

- (c) the member is absent from 3 consecutive meetings of the governing board without the leave of the Chairperson; or
 - (d) the member becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**.
- (2) A member must in the exercise of his or her functions—
- (a) act honestly; and
 - (b) exercise reasonable care and diligence; and
 - (c) not make improper use of any information acquired as a member of a governing board; and
 - (d) disclose to the governing board any conflict of interest or duties except those arising directly out of the person's qualification for membership of a governing board.
- (3) The Minister may remove a member appointed by the Minister under section 49B(1)(a) from office at any time.
- (4) The Minister may remove a member elected or appointed to a governing board under section 49B(1)(b), (c) or (e)—
- (a) on the recommendation of two thirds of the members for the time being of the governing board; or
 - (b) on the recommendation of the Adult, Community and Further Education Board.
-

-
- (5) The Adult, Community and Further Education Board must not make a recommendation under sub-section (4)(b) unless—
- (a) the Adult, Community and Further Education Board has requested the governing board to recommend the removal of a member and the governing board has not made a recommendation within 30 days of the request; and
 - (b) the Adult, Community and Further Education Board is satisfied that the member failed to comply with any requirement of sub-section (2); and
 - (c) the Adult, Community and Further Education Board has given the member an opportunity to submit an explanation in relation to the alleged failure.

49D. *Proceedings of governing boards*

- (1) Subject to this Act and any Order in Council made under section 47 relating to the governing board of an adult education institution, the governing board may regulate its own proceedings.
- (2) The governing board may permit members to participate in a particular meeting, or all meetings, by telephone, closed circuit television or other means of communication.

49E. *Reserve powers of Minister*

- (1) If the Minister is satisfied that the governing board of an institution—
 - (a) is inefficiently or incompetently managing the institution; or

- (b) is failing to comply with its performance agreement; or
- (c) has failed to comply with any provision of this Act, a guideline issued by the Minister under Part 2 or any directions given to the governing board by the Minister under this Part or an Order in Council establishing the governing board—

the Minister may do any one or more of the following—

- (d) issue written directions to the governing board about—
 - (i) action to be taken to remedy inefficient or incompetent management, which may include the dismissal of the institution's director; or
 - (ii) compliance with a performance agreement; or
 - (iii) compliance with the Act, guidelines, directions or an Order in Council;
 - (e) censure the governing board in accordance with section 49F;
 - (f) recommend that the Governor in Council dismiss the members of the governing board and appoint new members of the governing board and make arrangements for the elections for elected members of the governing board;
 - (g) recommend to the Governor in Council that an administrator of the institution
-

be appointed in accordance with sections 49F and 49G.

- (2) If the Minister is satisfied that a governing board has failed to comply with a direction given under sub-section (1)(d) the Minister may do any one or more of the things specified in sub-section (1)(e), (f) and (g).

49F. *Notice of proposal*

- (1) If the Minister proposes to exercise his or her powers under section 49E, the Minister—
- (a) must give the governing board notice in writing of the proposal and the reasons for the proposal; and
 - (b) must consider any submissions whether oral or in writing made to the Minister by the governing board within 7 days after the giving of the notice or any further time specified in the notice; and
 - (c) may consider any other submissions and any matters the Minister considers appropriate—
- before deciding whether or not to exercise the power.
- (2) If the Minister decides to censure or dismiss a governing board or appoint an administrator to the governing board, the Minister must—
- (a) give notice in writing of the censure, dismissal or appointment to the governing board; and
 - (b) cause to be tabled in each House of Parliament within 7 sitting days of the

House after the notice is given to the governing board—

- (i) a copy of the notice; and
- (ii) a report of the circumstances leading to the action; and
- (iii) a copy of any written submission made by the governing board.

49G. *Appointment of administrator*

- (1) If the Minister decides to recommend the appointment of an administrator, the Governor in Council, on the recommendation of the Minister, may appoint an administrator of the institution for the period and subject to the terms and conditions that are specified in the appointment.
 - (2) An administrator of an institution appointed under this section has and may exercise all the powers and is subject to all the duties of the governing board of the institution and the director of the institution.
 - (3) On the appointment of an administrator, the members of the governing board cease to hold office.
 - (4) The Minister must review the appointment of an administrator within 12 months after the appointment.
 - (5) If the Minister recommends to the Governor in Council that the appointment of the administrator should be revoked, the Governor in Council may by notice published in the Government Gazette declare that the appointment will be revoked on the date specified in the notice, being a date not
-

less than 28 days after the publication of the notice.

- (6) If a notice is published under sub-section (5) in relation to an institution—
- (a) members of the governing board of the institution shall be elected or appointed in accordance with this Part; and
 - (b) on the date specified in the notice—
 - (i) the appointment of the administrator is revoked; and
 - (ii) the governing board of the institution is re-established.

49H. *Saving of acts of board*

Nothing done by a governing board is in any way abated or affected by the dismissal of the governing board or the appointment of an administrator under section 49F or 49G.

49I. *Employment of staff*

- (1) Subject to any direction given by the Minister under section 10, a governing board—
- (a) must employ an institution director; and
 - (b) may employ such other staff as is necessary to enable the governing board to perform its functions and exercise its powers.
- (2) A governing board, in employing persons under this section, does not represent the Crown.

- (3) A governing board may, by instrument under its common seal, delegate to the institution director any power of the board under this section, other than this power of delegation.

49J. *Minister may object to director appointment*

- (1) Before appointing a person as institution director a governing board must notify the Minister in writing of the proposal to make the appointment.
- (2) The Minister may, within 10 days after receiving that notification and after considering the governing board's proposal, give to the governing board notice in writing of his or her objection to the proposed appointment.
- (3) A governing board must not appoint a person as an institution director if the Minister has objected to the appointment in accordance with sub-section (2).

49K. *Staff conditions*

A governing board may determine terms and conditions of employment of persons employed under section 49I to the extent that those terms and conditions are not determined or agreed in accordance with Part 6.

49L. *Institution directors*

An institution director—

- (a) is the chief executive officer of the governing board; and
- (b) is responsible for the day to day administration and management of the institution in accordance with any policies or directions of the governing
-

board of the institution and with the requirements of this Act; and

- (c) must satisfy the governing board that—
- (i) funds are spent; and
 - (ii) staff are carrying out functions; and
 - (iii) the institution is generally managed and administered—

in accordance with the requirements of this Act."

12. *New Part 6 inserted*

After Part 5 of the Principal Act **insert**—

**'PART 6—TRANSITIONAL PROVISIONS FOR
NEW ADULT EDUCATION INSTITUTIONS**

Division 1—Preliminary

53. *Extra-territorial operation of this Part*

It is the intention of the Parliament that the operation of this Part should, as far as possible, include operation in relation to the following—

- (a) land situated outside Victoria, whether in or outside Australia;
- (b) things situated outside Victoria, whether in or outside Australia;
- (c) acts, transactions and matters done, entered into or occurring outside Victoria, whether in or outside Australia;

- (d) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Division, be governed or otherwise affected by the law of the Commonwealth, another State, a Territory or a foreign country.

Division 2—Transfer of staff of AMES

54. Definition

In this Division—

"relevant date" means the date on which an Order in Council made under section 47 establishes the Board of AMES as a body corporate to be the governing board of Adult Multicultural Education Services.

55. Determination of staff to be transferred

The Minister must designate in writing the officers and employees of the public service and the teaching service who are employed in the Department of Education, Employment and Training in the administration or provision of adult multicultural education services who are to become employees of the Board of AMES under section 56.

56. Transfer of staff

- (1) On and from the relevant date, any officer or employee designated under section 55—
- (a) is deemed to be employed by the Board of AMES with effect from that date; and

- (b) is employed on the same terms and conditions as those that applied to the person, immediately before that date, as an officer or employee of the public service or the teaching service; and
 - (c) retains any entitlement to leave accrued or accruing to that person immediately before that date; and
 - (d) ceases to be an officer or employee of the public service or the teaching service.
- (2) The service of an employee of the Board of AMES is to be regarded for all purposes as having been continuous with the service of the person in the public service or the teaching service, immediately before the relevant date, as an officer or employee of the public service or teaching service.
- (3) A person whose employment is transferred under this Division is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of the public service or teaching service because of this Division.
- (4) A certificate purporting to be signed by the Director of AMES certifying that a person named in the certificate was, with effect from the relevant date, employed, by virtue of this section by the Board of AMES is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

57. Superannuation

- (1) A person whose employment is transferred by this Division and who, immediately
-

before being employed by the Board of AMES, was a contributor to or member of a superannuation fund or arrangement established by the **State Superannuation Act 1988** continues, subject to that Act, to be a contributor to or member of that fund or arrangement for so long as he or she is employed by the Board of AMES.

- (2) The terms and conditions of a superannuation fund or arrangement to which a person continues to contribute or of which he or she continues to be a member by virtue of sub-section (1) apply to that person, for so long as he or she is employed by the Board of AMES as if there had been no change of employer.

58. *Future terms and conditions of transferred employees*

Nothing in section 56 prevents—

- (a) any of the terms and conditions of employment of any officer or employee designated under section 55 from being altered by or under any law, award or agreement with effect from any time after the relevant date; or
- (b) an officer or employee designated under section 55 from resigning, or the termination of employment of such an officer or employee, at any time after the relevant date in accordance with the then existing terms and conditions of the person's employment by the Board of AMES.

59. *Savings for Director of AMES*

-
- (1) A person who, immediately before the relevant date, held office as the Director of AMES in the Department of Education Employment and Training is deemed to be appointed to the office of Director of AMES subject to the terms and conditions of that appointment immediately before the relevant date.
 - (2) Section 49J does not apply to the appointment under sub-section (1).

Division 3—Transfer of property, rights and liabilities of Council of Adult Education

60. Definitions

In this Division—

"Council of Adult Education" means the Council of Adult Education established under the **Council of Adult Education Act 1981**;

"relevant date" means the date on which an Order in Council made under section 47 establishes the Board of the Centre for Adult Education as a body corporate to be the governing board of the Centre for Adult Education.

61. Property rights and liabilities transferred to Board of Centre for Adult Education

On the relevant date—

- (a) the Council of Adult Education established under the **Council of Adult Education Act 1981** is dissolved;
- (b) the members of the Board of the Council of Adult Education established under that Act go out of Office;

- (c) all property and rights of the Council of Adult Education vest in the Board of the Centre for Adult Education;
 - (d) all liabilities of the Council of Adult Education become liabilities of the Board of the Centre for Adult Education;
 - (e) the Board of the Centre for Adult Education becomes the successor in law of the Council of Adult Education in relation to all the property, rights and liabilities of the Council of Adult Education that were in existence immediately before the relevant date;
 - (f) all contracts, deeds, bonds, agreements, arrangements, guarantees and other instruments (including contracts, agreements or arrangements relating to the members of staff of the Council) made or entered into by, on behalf of, or in relation to the Council or its Board and in force immediately before the relevant date have effect as if made or entered into by, on behalf of, or in relation to, the Centre or its Board;
 - (g) all actions, claims, arbitrations, applications and other proceedings (including proceedings on appeal or review) pending or existing immediately before the relevant date by, against, or in relation to the Council or its Board have effect as if they were proceedings by, against, or in relation to the Board, and may be continued and completed accordingly;
-

-
- (h) any permit, licence or authority of any kind issued or granted to the Council of Adult Education or its Board by or under any Act continues to operate in favour of the Centre for Adult Education and its Board in the same way and to the same extent as it operated in favour of the Council or its Board;
- (i) all records and documents of the Council of Adult Education or its Board become the property of the Board of the Centre for Adult Education;
- (j) the Board of the Centre for Adult Education is substituted for the Council of Adult Education as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to the Council of Adult Education;
- (k) the Board of the Centre for Adult Education may continue and complete any other continuing matter or thing commenced by or against or in relation to the Council of Adult Education;
- (l) any reference to the Council of Adult Education in—
- (i) an Act other than this Act; or
 - (ii) a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**; or
 - (iii) any document whatever—
- must so far as it relates to any period on or after the relevant date, and if not inconsistent with the context or subject-
-

matter, be taken to be a reference to the Board of the Centre for Adult Education.

62. Gifts etc.

If—

(a) before or after the relevant date—

(i) a gift, disposition or trust of property is made or declared or is deemed to have been made or declared; or

(ii) a trust fund is created—

(whether by deed, will or otherwise) to, in favour of, for the use of, or for the purposes of, the Council of Adult Education; and

(b) the gift, disposition, trust or trust fund takes effect, or may take effect, or the trust fund may be applied, on or after the relevant day—

the gift, disposition, trust or trust fund does not fail only because of the provisions of this Act, but, in relation to any other matter occurring on or after the relevant day—

(c) in the case of a gift, disposition or trust of property, takes effect as if made or declared to or in favour of the Centre for a purpose of the Centre that corresponds with, or is similar to, those purposes of the Council for which it was made or declared; or

(d) in the case of a trust fund, may be applied as if created in favour of the Centre for a purpose of the Centre that corresponds with, or is similar to, those

purposes of the Council for which the fund was created.

63. Staff of the Council

- (1) On the relevant date, the person who, immediately before that date, held office as the Director of the Council of Adult Education under section 14 of the **Council of Adult Education Act 1981** becomes the Director of the Centre for Adult Education subject to his or her term of appointment under section 14 of the **Council of Adult Education Act 1981**.
- (2) On the relevant date, any other person who, immediately before that date, was an officer or employee of the Council of Adult Education under section 14 of the **Council of Adult Education Act 1981** becomes a member of the staff of the Centre.
- (3) A person who becomes a member of the staff of the Centre under this section—
 - (a) is a member of the staff of the Centre employed on the same terms and conditions as those that applied to the person immediately before the relevant date as a member of staff of the Council;
 - (b) continues to have the benefit of all entitlements (including all entitlements arising from recognition of prior service with other bodies) accrued in respect of the person's employment by the Council before the relevant date;
 - (c) if the person was, immediately before the relevant date, an officer within the

meaning of the **State Superannuation Act 1988**, the person continues, subject to that Act, to be such an officer while he or she continues as a member of the staff of the Centre.

- (4) The service of a person who becomes a member of the staff of the Centre under this section is to be regarded for all purposes as having been continuous with the service of the person with the Council of Adult Education, immediately before the relevant date, as an employee of the Council of Adult Education.
- (5) A person whose employment is transferred under this Division is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of the Council of Adult Education because of this Division.
- (6) Section 49J does not apply to the appointment under sub-section (1).

64. Land of the Council

On the relevant date, the property and rights of the Council of Adult Education in the land described in the folios of the Register set out below vests in the Board of the Centre for Adult Education, subject to any conditions, covenants, encumbrances, caveats, limitations, exceptions, reservations, restrictions and rights to which they were subject immediately before so vesting.

| Volume | Folio |
|---------------|--------------|
| 3229 | 797 |
| 3766 | 144 |
| 9264 | 559 |

9408

388

65. *Amendment of the Register*

The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument, must make any amendments in the Register that are necessary because of the operation of this Division.

66. *Taxes*

No stamp duty or other tax is chargeable under any Act in respect of anything effected by or done under this Division or in respect of any act or transaction connected with or necessary to be done by reason of this Division, including a transaction entered into or an instrument made, executed, lodged or given.'

13. *New Schedule inserted*

At the end of the Principal Act **insert—**

"SCHEDULE

ADULT EDUCATION INSTITUTIONS

Adult Multicultural Education Services

Centre for Adult Education."

14. *Repeals*

- (1) The **Council of Adult Education Act 1981** is **repealed**.
- (2) The **Employment Agents Act 1983** is **repealed**.

ENDNOTES

† *Minister's second reading speech—*

Legislative Assembly: 7 September 2000

Legislative Council: 24 October 2000

The long title for the Bill for this Act was "to amend the **Adult, Community and Further Education Act 1991** to provide for the establishment of adult education institutions and their governing boards, to transfer the staff employed in the Department of Education, Employment and Training in the administration or provision of adult multicultural education services to an adult education institution to be known as Adult Multicultural Education Services and to make other amendments, to repeal the **Council of Adult Education Act 1981** and to transfer the staff, property, rights and liabilities of the Council to an adult education institution to be called the Centre for Adult Education, to repeal the **Employment Agents Act 1983** and for other purposes."