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**ELIZABETHAE II REGINAE**

A.D. 1990

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**No. 48 of 1990****An Act to amend the Technical and Further Education Act, 1976.**

[Assented to 15 November 1990]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Technical and Further Education Act Amendment Act, 1990*.

(2) The *Technical and Further Education Act, 1976*, is referred to in this Act as "the principal Act".

**Commencement**

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

**Interpretation**

3. Section 4 of the principal Act is amended by striking from the definition of "the Minister" in subsection (1) "Minister of Education" twice occurring and substituting, in each case, "Minister of Employment and Further Education".

**Delegation by Minister**

4. Section 8 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The Minister may, by instrument in writing, delegate to—

(a) the Director-General;

(b) the person for the time being holding or acting in any position or office in the Department or the teaching service;

or

(c) the person for the time being holding or acting in an office or position established by the Minister under section 9,

any of the Minister's powers, duties, responsibilities or functions under this Act, except the power to dismiss a person from office.

### **Delegation by Director-General**

5. Section 13 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The Director-General may, by instrument in writing and with the consent of the Minister, delegate to—

(a) the person for the time being holding or acting in any position or office in the Department or the teaching service;

or

(b) the person for the time being holding or acting in an office or position established by the Minister under section 9,

any of the Director-General's powers, duties, responsibilities or functions under this Act.

### **Substitution of s. 17**

6. Section 17 of the principal Act is repealed and the following section is substituted:

#### **Incapacity of members of the teaching service**

17. (1) If the Director-General is satisfied that an officer is, by reason of mental or physical illness or disability, incapable of performing satisfactorily the duties of the office occupied by the officer, the Director-General may do one or more of the following:

(a) by written determination, transfer the officer to some other office in the teaching service;

(b) recommend to the Minister that the officer be transferred to some other employment in the Government of the State;

(c) grant the officer leave of absence (without remuneration) from the teaching service;

(d) recommend to the Minister that the officer be retired from the teaching service.

(2) The Director-General must, before transferring or recommending the transfer of an officer to an office or position of reduced status, or recommending that an officer be retired, be satisfied that transfer of the officer to an office or position of equivalent status is not reasonably practicable in the circumstances.

(3) Where an officer is transferred to an office of reduced status pursuant to subsection (1) (a), the Director-General must alter the classification of the officer accordingly.

(4) The Minister, on receiving a recommendation under subsection (1) (b), may appoint the officer to an office or position pursuant to section 9 (6) or take action with a view to securing for the officer some other appropriate employment in the Government of the State.

(5) The Minister, on receiving a recommendation under subsection (1) (d) may, in accordance with that recommendation, retire the officer from the teaching service.

(6) An officer may, within 14 days after receiving notice of a determination under this section or of a decision made by the Minister to transfer or retire the officer in accordance with a recommendation under this section, appeal to the Appeal Board against the determination or decision.

(7) The Appeal Board may, upon the hearing of an appeal under this section, revoke the determination or decision and, where effect has been given to the determination or decision, order that the officer be reinstated as if no determination or decision had been made.

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

D. B. DUNSTAN, Governor