

LEGISLATIVE ASSEMBLY

Read 1^o 12 November 1980

(Brought in by Mr. Lacy and Mr. Thompson.)

A BILL

To establish a Body Corporate under the Name of the Institute of Educational Administration, and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Institute of Educational Administration Act* 1980. Short title.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Commencement.

2. In this Act, unless inconsistent with the context or subject-matter— Interpretation.

“Chairman” means the Chairman of the Council and includes a person acting as Chairman under section 10 (4); “Chairman.”

“Council” means the Governing Council of the Institute constituted pursuant to section 9; “Council.”

“Director” means the Director of the Institute; “Director.”

“Institute” means the Institute of Educational Administration established by section 3; “Institute.”

“Treasurer” means the Treasurer of Victoria.

Establishment
of Institute.

3. (1) There is established a public authority to be known as the "Institute of Educational Administration".

(2) The Institute is a body corporate with perpetual succession and a common seal, capable in law of suing and of being sued, of acquiring, holding and disposing of real and personal property and of doing and suffering all acts, matters and things which bodies corporate may by law do and suffer. 5

Transitional.

4. (1) In this section "the Original Council" means the Council of the Institute of Educational Administration established by Order of the Governor in Council made on 1 August 1978 and published in the *Government Gazette* on 2 August 1978. 10

(2) The Institute is the successor in law of the Original Council.

(3) On the commencement of this Act, and without any further or other authority than this Act, there is vested in the Institute—

(a) all real property of whatsoever nature or tenure vested in the Original Council, or held by any person on behalf of or for the use or benefit of the Original Council, immediately before that commencement; and 15

(b) all personal property of whatsoever nature or description vested in the Original Council, or held by any person on behalf of or for the use or benefit of the Original Council, immediately before that commencement. 20

(4) On the commencement of this Act—

(a) all contracts, agreements, deeds, bonds and other instruments lawfully entered into or made by the Original Council and subsisting immediately before that commencement shall become and be as binding and of as full force and effect in all respects against or in favour of the Institute as if they had been entered into or made by the Institute; 25 30

(b) any action, arbitration or legal or other proceeding which was immediately before that commencement pending or subsisting by or in favour of or against the Original Council shall not be abated or discontinued or prejudiced by reason of the provisions of this Act, but may be prosecuted, continued or enforced by, against or in favour of the Institute in the same manner as it might have been prosecuted, continued or enforced by, against or in favour of the Original Council if this Act had not been passed; and 35 40

(c) all acts, matters and things of a continuing nature made, done or commenced by or on behalf of the Original Council which have or are capable of acquiring any force or effect shall be deemed to have been made, done or

commenced

commenced by or in relation to or on behalf of the Institute and shall have effect and may be continued or completed by or in relation to or on behalf of the Institute accordingly.

5 (5) The Order of the Governor in Council made on 1 August 1978 constituting the Original Council is revoked.

5. (1) The objects of the Institute are—

Objects of
the
Institute.

- 10 (a) to provide programmes of training and other activities to improve the administrative ability of persons in positions of leadership in the field of education, persons aspiring to such positions and other persons interested in educational administration;
- 15 (b) to undertake research to ascertain methods by which the quality of educational administration may be improved; and
- (c) to advise and assist educational institutions in matters relating to the administration of those institutions.

(2) Any land which is occupied by the Institute for the purposes of this Act shall be deemed to be used exclusively for public purposes.

20 6. (1) To promote its objects the Institute has the following powers:

Powers of
the Institute.

- (a) To undertake activities designed to create within the community an informed opinion about the objects and activities of the Institute;
- 25 (b) To establish and maintain regular consultations between all those concerned with the study and practice of management or administration;
- (c) To collect, process and disseminate general information relevant to educational administration;
- 30 (d) To support financially research undertaken by other persons and bodies into matters relating to educational administration;
- (e) To develop and produce materials and facilities for use in connection with programmes or services offered by the Institute or in connection with educational administration generally, and to market those materials and facilities;
- 35 (f) To determine the terms and conditions upon which persons may attend courses and programmes offered by the Institute or make use of the premises or equipment of the Institute;
- 40

(g) To

- (g) To do all such things as advance the interests of the staff of the Institute and participants in programmes offered by the Institute;
- (h) To charge fees in connexion with the programmes and educational and other services provided by the Institute; 5
- (i) To purchase, take on lease, in exchange or on hire or otherwise acquire and hold any real or personal property or any rights or privileges that the Council may consider it necessary or convenient to acquire to promote the objects of the Institute; 10
- (j) To acquire real or personal property by purchase, gift, grant, bequest or otherwise and to agree to and observe any conditions of any such acquisition;
- (k) To do all such things as may be required in order to render the Institute eligible to receive grants under any law of the Commonwealth of Australia or of the State of Victoria that provides for the making of grants to educational institutions or in order to attract grants from Australian or international sources; 15
- (l) To engage architects and other professional advisers and, subject to section 18 and with the approval of the Minister (which may be given generally or in a particular case or class of cases), enter into contracts or arrangements with any person or body for or in connexion with— 20
- (i) the erection of buildings on land vested in or occupied by the Institute; or
- (ii) the making of improvements or alterations, or the carrying out of repairs, to buildings vested in or occupied or used by the Institute; and 25
- (m) To do all such things as are, in the opinion of the Council incidental or conducive to the promotion of the objects of the Institute or the exercise of its powers. 30

(2) The powers of the Institute are vested in, and may be exercised by, the Council. 35

Account and
moneys.

7. (1) The Council shall on behalf of the Institute establish and maintain an account in a bank to be known as the Institute of Educational Administration Account.

(2) All moneys received by or on behalf of the Institute shall be paid in to the Account. 40

(3) All

(3) All moneys standing to the credit of the Institute in the Account may be invested in any manner authorized by law for the investment of Institute funds or in such other securities as the Treasurer approves.

5 (4) All income from the investments of the Institute shall be paid in to the Account.

(5) Moneys standing to the credit of the Institute in the Account shall be applied by the Institute for or towards the costs and expenses of or incidental to the performance of its functions and the exercise
10 of its powers under this Act.

8. (1) The Institute may, with the approval of the Treasurer and subject to such terms, conditions and limits as the Treasurer imposes— Borrowing Powers.

(a) borrow moneys from a bank by way of overdraft; and

15 (b) obtain temporary financial accommodation secured or arranged in such manner and for such period as the Treasurer in each particular case approves.

(2) The Institute may borrow money from any institution, person or body approved by the Treasurer on such terms and conditions as are approved by the Treasurer from time to time and give to any such institution, person or body security for money so borrowed in such form as the Treasurer approves in each
20 particular case.

(3) The Treasurer, with the approval of the Governor in Council, Guarantee.
25 may execute in favour of any institution, person or body lending money to the Institute a guarantee for the repayment thereof and may in addition guarantee the payment of any interest, charges and expenses chargeable under the terms of the loan by the creditor against the Institute and the expenses of enforcing or obtaining, or
30 endeavouring to enforce, or obtain, payment of the debt guaranteed and the interest, charges and expenses.

(4) Any sum required by the Treasurer to fulfil a guarantee executed pursuant to sub-section (3) shall be paid out of the Consolidated Fund (which is hereby to the necessary extent
35 appropriated accordingly) and any sum received or recovered by the Treasurer from the Institute or otherwise in respect of any sum so paid by him shall be paid into the Consolidated Fund.

(5) Before a guarantee is given by the Treasurer under this section the Institute shall give to the Treasurer such securities as
40 the Treasurer requires and shall execute all such instruments as are necessary for that purpose.

(6) The Institute shall apply and use all moneys borrowed under the power conferred by this section for the purpose of carrying this Act into effect.

9. (1) The

Constitution
of Council.

9. (1) The governing body of the Institute is the Council of the Institute of Educational Administration constituted under this section.

(2) The Council shall consist of not more than twenty-five members, of whom— 5

- (a) not more than twenty shall be appointed by the Governor in Council; and
- (b) not more than five shall be appointed by co-option by the Council.

(3) A person appointed to be a member of the Council shall, subject to this section, hold office for the term specified in the instrument by which he is appointed. 10

(4) The Governor in Council may, by order published in the *Government Gazette*, remove from office any person who is a member of the Council. 15

(5) If a person appointed by the Minister, the Governor in Council or the Council to be a member of the Council—

- (a) resigns his office by writing under his hand directed to the Chairman of the Council;
- (b) becomes a patient within the meaning of the *Mental Health Act 1959*; 20
- (c) becomes bankrupt;
- (d) is convicted of an indictable offence;
- (e) without leave having previously been granted by the Council absents himself from three consecutive meetings of the Council; 25
- (f) is removed from office pursuant to sub-section (4); or
- (g) dies—

his office shall become vacant and a casual vacancy shall be deemed to have arisen. 30

(6) In the event of a casual vacancy occurring on the Council, the person or body who appointed the person in respect of whom the vacancy arose may appoint a person to fill the vacancy for the balance of the term of the person replaced.

(7) A person appointed to be a member of the Council shall at the expiration of his term of office be eligible to be re-appointed. 35

(8) A member of the Council is entitled to be reimbursed from the funds of the Institute for any expenses incurred, or to be incurred, by him in connection with his activities as a member of the Council. 40

(9) All things done at a meeting of the Council shall be valid and effective notwithstanding that the appointment of any member of the Council is defective or invalid.

10. (1) Eleven members of the Council constitute a quorum.

Proceedings
of Council.

(2) Provided there is a quorum, the Council may act notwithstanding any vacancy in its membership.

(3) The Governor in Council may appoint a member of the
5 Council to be its Chairman.

(4) In the absence of the Chairman of the Council from a meeting, the members of the Council present at the meeting shall elect a member present to be the Chairman of that meeting.

(5) The Council shall meet at least three times in each year.

10 (6) A question which is to be decided by the Council shall be decided on the vote of a majority of the members present at the meeting at which the question arises for decision.

(7) The Chairman of a meeting of the Council shall have a deliberative and, if necessary, a casting vote.

15 (8) Subject to this section the Council shall regulate its own proceedings.

11. (1) A member of the Council or of any committee established under section 13 who has or acquires any financial interest, other than an interest which may properly be regarded
20 as not material, in a contract or arrangement made or proposed to be made by the Institute or the committee (as the case may be) shall disclose his interest to the Council or committee.

Pecuniary
interest.

(2) A member of the Council or of any committee who is required by sub-section (1) to disclose an interest shall do so—

25 (a) if he is aware of his interest at the first meeting of the Council or committee at which the contract or arrangement is considered—at that meeting; or

30 (b) if his interest does not exist when the contract or arrangement is first considered by the Council or committee or if he is not aware of an interest at that time—at the first meeting of the Council or committee after he acquires his interest or becomes aware of his interest (as the case may be).

35 (3) A member of the Council or a committee who makes a disclosure pursuant to sub-section (1) shall not vote on any matter concerning the contract or arrangement in respect of which the disclosure was made.

40 (4) Notwithstanding this section, an act done or resolution passed at a meeting of the Council or committee shall be valid and effective notwithstanding the failure of a member of the Council or committee to comply with the requirements of this section.

12. (1) The

- Seal.** 12. (1) The Council shall provide for safe custody of the common seal of the Institute.
- (2) The common seal of the Institute shall be used only by the authority of the Council or of a committee authorized by the Council in that behalf. 5
- (3) Every instrument to which the common seal of the Institute is affixed shall be signed by a person authorized by the Council in that behalf.
- Committees.** 13. (1) The Council may from time to time establish a committee.
- (2) A committee may consist wholly of persons who are members of the Council or officers or employees of the Institute or wholly or partly of persons who are not members of the Council or officers or employees of the Institute. 10
- (3) The Council may request a committee to advise or assist the Council in relation to the performance of any of the functions or the exercise of any of the powers of the Institute under this Act. 15
- (4) A committee shall make such enquiries and furnish such reports in connection with advice or assistance given by it under this section as the Council directs.
- (5) The Council may pay to a member of a committee (other than a full time member of the Council or a full time officer or employee of the Institute) such fees and allowances as it thinks fit. 20
- (6) The Council may at any time dissolve a committee.
- Delegation.** 14. (1) The Council may delegate to—
- (a) a committee established under section 13; or 25
- (b) any person—
- any of the powers or functions (other than this power of delegation) which it may exercise or perform under this Act.
- (2) A delegation may be made subject to such terms and conditions as the Council thinks fit. 30
- (3) Delegation of a power or function under this section does not prevent the exercise or performance of that power or function by the Council.
- (4) The Council may at any time vary or revoke a delegation.
- Director and staff.** 15. (1) The Council shall from time to time appoint a person on such terms and conditions as it thinks fit to be the Director of the Institute. 35
- (2) The Council may appoint, on such terms and conditions as are fixed by the Minister, such officers and employees as the Council thinks it necessary to appoint for the purposes of this Act.

(3) Any officer or employee of the Institute, including the Director, who—

(a) was immediately prior to his appointment an officer of the public service or a member of the teaching service; or

(b) having formerly been an officer of the public service or member of the teaching service, has been continuously engaged or employed since he ceased to be such an officer or member in an office or capacity in which he was eligible to be re-appointed upon the termination of such engagement or employment to some office in the public service or the teaching service—

shall be entitled to be re-appointed by the Public Service Board or the Teachers Tribunal (as the case may be) at the termination of his appointment by the Institute to some office in the public service or the teaching service (as the case may be) with a classification and emolument corresponding with or higher than that which he last held in the public service or teaching service, as if his service with the Institute and in that office or capacity had been service in the public service or the teaching service (as the case may be).

(4) A person appointed pursuant to this section who was immediately prior to his appointment an officer within the meaning of the *Superannuation Act 1958* or any corresponding previous enactment shall notwithstanding his appointment be deemed to continue, subject to that Act, to be an officer within the meaning of that Act.

(5) In addition to appointing officers and employees under sub-section (2), the Council may from time to time engage a person on a casual basis, on such terms and conditions as it thinks fit, to conduct, or assist in the conduct of, a programme offered by the Institute.

16. (1) The Minister may direct that the services of any member of the teaching service shall be made available to, and may be made use of by, the Institute.

Use of services of members of teaching service.

(2) The Minister and the Institute may make such arrangements as they think fit with respect to defraying the costs of the remuneration and other emoluments of a member of the teaching service whose services are made available to the institute pursuant to sub-section (1).

17. (1) The Council shall cause to be kept proper accounts and records of the transactions and affairs of the Institute.

Accounts.

(2) The Council shall at the end of each financial year prepare a statement of accounts in a form appropriate to the activities of the Institute and including such information as is necessary to give a true and fair view of the financial transactions and state of affairs of the Institute.

(3) The

Audit.

(3) The statement of accounts shall be audited by the Auditor-General, who shall have in respect of the accounts and records of the Institute all the powers conferred on him by any law now or hereafter in force relating to the audit of the public accounts.

Annual Report.

(4) The Council shall as soon as practicable after the end of each financial year and not later than the following 31 December submit to the Minister a report of its operations during the financial year together with the audited statement of accounts. 5

(5) The Minister shall cause the report and the audited statement of accounts submitted to him under this section to be laid before both Houses of Parliament within three weeks after receiving the same if Parliament is then sitting or (if Parliament is not then sitting) within three weeks after the next meeting of Parliament. 10

(6) The Council shall pay each year to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of the audit under this section. 15

(7) The financial year of the Institute shall be the year ending on the last day of June.

Tender for certain contracts.

18. (1) The Institute shall, by advertisement in any newspaper circulating generally throughout the State, invite tenders for the supply of any goods or services, or the carrying out of any work, the cost of which is estimated by the Council to exceed \$10 000 or such other sum as is prescribed by the regulations. 20

(2) Sub-section (1) does not apply to contracts of employment or to the engagement by the Institute of architects, consultants and other professional persons whose charges are normally made at rates fixed and published by statutory bodies or professional associations. 25

Regulations.

19. The Governor in Council may make regulations not inconsistent with this Act for or with respect to prescribing all matters that are required or permitted to be prescribed or are necessary to be prescribed for carrying out or giving effect to this Act. 30