

Tertiary Education Bill

No.

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SCHEDULES

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UNIVERSITIES

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AUTONOMOUS COLLEGE

LEGISLATIVE ASSEMBLY

Read 1° 21 April 1993

(Brought in by Mr Hayward and Mr Gude)

A BILL

to provide for the better promotion, development and co-ordination of post-secondary education in Victoria, to abolish the Post-Secondary Education Commission, to repeal the **Post-Secondary Education Act 1978**, to amend the **Vocational Education and Training Act 1990** and certain other Acts and for other purposes.

Tertiary Education Act 1993

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

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The main purpose of this Act is to provide for the better promotion, development and co-ordination of post-secondary education in Victoria.

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

2. Commencement

- (1) Section 1 and this section come into operation on 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. 5
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period. 10

3. Definitions

In this Act—

“autonomous college” means a college specified in Schedule 2; 15

“further education” means that part of technical and further education which is not vocational education and training within the meaning of the **Vocational Education and Training Act 1990** and which is not provided by a university or autonomous college; 20

“post-secondary education” means education of persons—

(a) who are beyond the age of compulsory school attendance; and 25

(b) who are not undergoing a course of secondary education;

“post-secondary education institution” means an institution which is supported directly or indirectly by government funds providing post-secondary education including but not limited to an autonomous college and a university; 30

“post-secondary education provider” means a post-secondary education institution or other 35

institution or person or body providing or offering to provide post-secondary education;

5 “**TAFE college**” means an institution specified in Schedule 1 to the **Vocational Education and Training Act 1990** but if an institution so specified is also specified in Schedule 1 or 2 to this Act means that part of the institution which provides technical and further education;

10 “**technical and further education**” means post-secondary education wherever provided or offered which is not directed towards—

(a) the award of a degree or diploma at an autonomous college or university; or

15 (b) a higher education award within the meaning of section 9;

“**university**”, except in section 10, means an institution specified in Schedule 1.

PART 2—CO-ORDINATION OF POST-SECONDARY EDUCATION

20 **Division 1—General**

4. *Establishment of bodies to advise Minister*

(1) The Governor in Council may from time to time by order establish any board, committee or other similar body comprising persons with experience or expertise in, or able to offer informed advice about, post-secondary education—

25 (a) to advise the Minister on any matter relating to post-secondary education referred to it by the Minister; and

30 (b) to exercise any of the powers and functions of the Minister that are delegated to it under this Act.

(2) The Governor in Council may, in any Order made under sub-section (1), make any provision with respect to the terms and conditions of appointment of the members of the body and the functions and procedure of the body as the Governor in Council thinks fit.

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5. Supply of information

The council or governing body of a post-secondary education institution must supply the Minister with any information that he or she may reasonably require for the effective monitoring, development and planning of post-secondary education in Victoria.

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6. Endorsement of courses of study for overseas students

(1) The Minister may endorse any course of study—

(a) in higher education offered by a post-secondary education provider; or

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(b) offered by an institution specified in Schedule 1 or 2 other than a course of study in a TAFE division of a university—

as suitable for students from overseas.

(2) The council or proprietor or other person representing an institution or post-secondary education provider may apply in writing to the Minister for the endorsement of a course.

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(3) In deciding whether to endorse a course the Minister may have regard to all or any of the following matters in relation to the institution, establishment or centre where the course of study is offered or proposed to be offered:

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(a) financial planning;

(b) marketing and promotion materials;

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(c) the use of agents;

(d) contracts with respect to students;

(e) student grievance procedures;

(f) welfare services for students;

(g) student housing and accommodation;

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(h) arrival and attendance monitoring of students;

(i) student selection procedures;

(j) the number of students;

(k) class sizes;

(*l*) student contact hours;

(*m*) curriculum;

(*n*) premises, equipment, materials and resources;

(*o*) course nomenclature;

5 (*p*) qualifications and experience of staff;

(*q*) any other matter relating to the management or operations of the institution, centre or establishment where the course of study is offered or proposed to be offered.

10 (4) The Minister may from time to time issue guidelines dealing with all or any of the matters referred to in sub-section (3).

15 (5) An endorsement under this section remains in force for three years from the date of the endorsement unless sooner suspended or cancelled.

(6) If the Minister is satisfied that a course of study endorsed under sub-section (1) is no longer suitable to be endorsed, the Minister may suspend or cancel the endorsement.

20 (7) A person may apply to the Administrative Appeals Tribunal for a review of a decision of the Minister not to endorse a course of study or to cancel or suspend the endorsement of a course of study under this section.

25 (8) The Minister must notify the Minister of the Commonwealth for the time being administering the Act of the Commonwealth known as the **Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991** as soon as practicable of an endorsement of a course of study or the cancellation or suspension of an endorsement under this section.

30 (9) The Minister may charge a reasonable fee for an application under sub-section (2).

7. Statement about compulsory non-academic fees

- (1) The governing body of a post-secondary education institution must ensure that, at the beginning of each academic year, a statement about compulsory non-academic fees is prepared, published and made freely available to students and prospective students. 5
- (2) The statement must specify—
 - (a) the amount of compulsory non-academic fees collected by the institution from students and prospective students in the preceding year; and 10
 - (b) the purposes for which the institution spent all or any of those fees or made them available and the amounts spent or made available; and
 - (c) the names of organisations of students at the institution to which the institution made the fees or part of the fees available and the amounts of money which were made available to each organisation; and 15
 - (d) the purposes for which the organisations referred to in paragraph (c) spent the money made available to them including names of other organisations to which they made the money available and the amounts of money they made available. 20
- (3) The governing body of the institution must ensure that the statement is audited in relation to the matters referred to in paragraphs (a), (b) and (c). 25
- (4) For the purposes of this section—
 - (a) a compulsory non-academic fee includes a fee, subscription or charge that is expended for a non-academic purpose which, if a student refuses to pay it, makes the student liable to— 30
 - (i) exclusion from the institution; or
 - (ii) exclusion from or discrimination in respect of examinations or any other academic activities of the institution; or 35

(iii) exclusion from amenities or services for students; or

(iv) pay a fine to the institution; or

(v) any other punishment imposed by or on behalf of the institution; and

(b) an organisation is to be treated as an organisation of students at a post-secondary education institution if it is a body or organisation of students at that institution or of students at that institution and other persons.

8. Power to acquire land

(1) The Minister may purchase by agreement or compulsorily acquire any land required for post-secondary education purposes.

(2) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—

(a) this Act is the special Act; and

(b) the Minister is the Authority.

Division 2—Higher Education

9. Definitions

In this Division—

“**accredit**” in relation to a course of study that leads to a higher education award, means recognise that the standard of the course of study and the way of delivering it, are appropriate to the award;

“**higher education award**” means any qualification described as a degree, associate degree, higher degree, graduate diploma or certificate or post-graduate diploma or certificate other than a graduate certificate or post-graduate certificate if the course of study relating to that certificate is included in the State Register of Accredited

Courses established under section 78A of the
Vocational Education and Training Act 1990;

“institution” includes person or body;

“recognised university” means an institution that is—

- (a) established or recognised as a University under an Act; or 5
- (b) established as a University under an Act of the Commonwealth, another State or a Territory.

10. Only approved universities to operate in Victoria 10

- (1) An institution, other than a recognised University, must not operate or purport to operate as a University or part of a University without the approval of the Minister.

Penalty: 200 penalty units.

- (2) A person representing an institution may apply in writing for approval to operate as a University. 15

- (3) In deciding whether to grant approval under sub-section (1), the Minister may have regard to government policies and priorities and to all or any of the following matters: 20

- (a) in the case of an institution established in a foreign country, whether it is recognised as a University by the authority in the foreign country that, in the Minister’s opinion, is the competent authority; 25

- (b) the need in Victoria for any course of study to be offered by the University;

- (c) the views or recommendations of any relevant industrial or professional body about the course of study to be offered by the University; 30

- (d) the standard of any course of study to be offered by the University;

- (e) the academic, financial and staffing resources of the University which would be available in Victoria. 35

- 5
- (4) The Minister may from time to time issue guidelines about all or any of the matters referred to in sub-section (3).
- (5) An approval remains in force for any period not exceeding 5 years that the Minister determines unless sooner revoked.
- (6) An approval is subject to any other conditions imposed by the Minister.
- (7) The Minister may revoke an approval.
- 10 (8) In determining whether to revoke an approval the Minister may have regard to all or any of the matters referred to in sub-section (3).
- 15 (9) A person may apply to the Administrative Appeals Tribunal for a review of a decision of the Minister not to grant an approval or to revoke an approval under this section.
- (10) The Minister may charge a reasonable fee for an application for approval under this section.

11. *Accreditation and authorisation to conduct courses*

- 20 (1) An institution, other than a recognised University or an institution which has the approval of the Minister to operate as a University under section 10 or the Melbourne College of Divinity, must not—
- 25 (a) confer or offer to confer a higher education award in relation to a course of study; or
- (b) offer or conduct a course of study leading to the conferral of a higher education award; or
- 30 (c) represent in any manner that a course of study offered or conducted by that institution leads to or would entitle a person completing that course to, the conferral of a higher education award—
- unless—
- (d) in the case of an institution specified in Schedule 2, it is authorised by an Order in Council under section 16 to confer the award;
- 35 (e) in the case of any other institution—

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- (i) the course of study is accredited by the Minister; and
 - (ii) the Minister has authorised the institution to conduct the course of study.

Penalty: 200 penalty units. 5
- (2) A person representing an institution may apply in writing for accreditation of a course of study or authorisation to conduct a course of study.
- (3) In deciding whether to accredit a course of study under sub-section (1) (e) (i), the Minister— 10
 - (a) must have regard to whether the course of study is equivalent in standard to a course leading to an award of that type or level in a University; and
 - (b) may have regard to all or any of the following matters— 15
 - (i) student selection procedures;
 - (ii) the number of students;
 - (iii) class sizes;
 - (iv) student contact hours;
 - (v) curriculum 20
 - (vi) premises, equipment, materials and resources;
 - (vii) course nomenclature;
 - (viii) qualifications and experience of staff;
 - (ix) any other matter relating to the teaching administration or standards of the course of study. 25
- (4) In deciding whether to authorise an institution to conduct a course of study under sub-section (1) (e) (ii) the Minister may have regard to all or any of the following matters— 30
 - (a) the need in Victoria for the course of study;
 - (b) the views or recommendations of any relevant industrial or professional body about the course of study; 35

(c) the standard of the course of study including whether the course of study is accredited under sub-section (1) (e) (i);

(d) the appropriateness of the proposed method of providing the course of study;

(e) the academic, financial and staffing resources of the institution and the availability of those resources in providing the course of study;

(f) any other matter relating to the management or operations of the institution which in the Minister's opinion are relevant to its ability to provide the course of study.

(5) The Minister may from time to time issue guidelines about all or any of the matters referred to in sub-section (3) or (4).

(6) An accreditation or authorisation under this section remains in force for any period not exceeding 5 years that the Minister determines unless sooner revoked.

(7) An accreditation or authorisation is subject to any other conditions imposed by the Minister.

(8) The Minister may revoke an accreditation or authorisation.

(9) In determining whether to revoke an accreditation the Minister may have regard to all or any of the matters referred to in sub-section (3).

(10) In determining whether to revoke an authorisation the Minister may have regard to all or any of the matters referred to in sub-section (4).

(11) A person may apply to the Administrative Appeals Tribunal for a review of a decision not to grant accreditation or authorisation or to revoke an accreditation or authorisation under this section.

(12) The Minister may charge a reasonable fee for any application for accreditation or authorisation under this section.

12. Register of Higher Education

- (1) The Minister must ensure that a Register of Higher Education is established and maintained.
- (2) The Minister must ensure that particulars of approvals given under section 10 and accreditations and authorisations under section 11 are entered in the Register. 5

PART 3—INCORPORATION OF COUNCILS**13. Application**

Nothing in this Division applies to a university, a TAFE college or a provider of further education. 10

14. Post-secondary education institutions

- (1) The Governor in Council may, on the recommendation of the Minister, by order published in the Government Gazette— 15
- (a) create a post-secondary education institution; or
 - (b) abolish a post-secondary education institution; or
 - (c) amalgamate one or more post-secondary education institutions; or
 - (d) change the name of a post-secondary education institution— 20
- and amend Schedule 2 by—
- (e) inserting the name of a new or amalgamated post-secondary education institution; or
 - (f) removing the name of a post-secondary education institution; or 25
 - (g) changing the name of a post-secondary education institution.
- (2) The Minister must not make a recommendation under sub-section (1) unless the council or 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. 30

- (3) If an Order in Council under sub-section (1) changes the name of an institution—
- (a) the institution continues in existence under the new name so that its identity is not affected; and
 - (b) any reference to an institution under the former name shall, except in relation to matters that occurred before the change of name, be construed as a reference to the institution under the new name.

15. *Incorporation of councils*

- (1) The Governor in Council may, on the recommendation of the Minister, by Order published in the Government Gazette—
- (a) establish a council to be the governing body of an institution; or
 - (b) amalgamate a council with another council; or
 - (c) abolish a council; or
 - (d) change the name of a council;
 - (e) make provision or further provision for or with respect to the constitution, management structure, membership, objectives, powers, duties or functions of a council, the manner of appointment or the terms and conditions of appointment of members of a council; or
 - (f) make provision for a council to make rules for the government of the institution; or
 - (g) make provision for a council to delegate any of its powers and functions 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 council; or
 - (h) amend any provision of a previous order relating to a council; or
 - (i) make provision for or with respect to anything that is consequential on the making of an order involving the rights and obligations or the

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assignment of any property (subject to any trusts)
of any council referred to in the Order.

- (2) The Minister must not make a recommendation under sub-section (1) unless the council of the college concerned has made a request for the proposed Order or has been consulted about the proposed Order. 5
- (3) A council established under sub-section (1)—
- (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) is capable in law of suing and being sued in its corporate name; and 10
 - (d) may acquire hold and dispose of real and personal property for the purpose of performing its functions and exercising its powers under this Act; and 15
 - (e) may do and suffer all acts matters and things that a body corporate may by law do or suffer and are necessary or expedient for the purpose of performing its functions and exercising its powers under this Act. 20
- (4) If two or more councils previously incorporated under this Act or the **Post-Secondary Education Act 1978** are amalgamated under an Order made under sub-section (1), any legal proceedings that might have been commenced or continued by or against any of the councils may be commenced or continued by or against the single council formed by the amalgamation. 25
- (5) A change of name of a council under an order under sub-section (1) does not affect the identity of the council or any rights or obligations of the council, and any legal proceedings that might have commenced or continued by or against it by its former name may be commenced or continued by or against it by its new name. 30

16. Award of degrees or diplomas

- 5
- (1) The Governor in Council may by Order published in the Government Gazette confer on the council of a post-secondary education institution incorporated under section 15 the power to award a degree or diploma specified in the Order.
- 10
- (2) The Governor in Council may in an Order or further Order make the power to award a specified degree or diploma subject to any terms and conditions that the Governor in Council thinks fit or remove or vary any term or condition to which the power is subject or impose additional terms and conditions on the exercise of the power.

17. Accounts and records

- 15
- (1) The council of a post-secondary education institution incorporated under this Act must ensure that there are kept proper accounts and records of the transactions and affairs of the institution and such other records as sufficiently explain the financial operations and financial position of the institution.
- 20
- (2) The council must do all things necessary to—
- (a) ensure that all money payable to the institution is properly collected;
- 25
- (b) ensure that all money expended by the institution is properly expended and properly authorised;
- (c) ensure that adequate control is maintained over assets secured by, or in the custody of, the institution;
- 30
- (d) ensure that all liabilities incurred by the institution are properly authorised;
- (e) ensure efficiency and economy of operations and avoidance of waste and extravagance;
- (f) develop and maintain an adequate budgeting and accounting system;

- (g) develop and maintain an adequate internal audit system.

18. Annual Report

- (1) The council of a post-secondary education institution incorporated under this Act must, in respect of each financial year, prepare an annual report containing— 5
- (a) the report of its operations during the financial year; and
- (b) financial statements for the financial year—
- and submit the report to the Minister not later than 30 September next following the financial year. 10
- (2) The report of operations referred to in sub-section (1) (a)—
- (a) must be prepared in a form and contain information determined by the council to be appropriate; and 15
- (b) must contain any further information required by the Minister.
- (3) The financial statements referred to in sub-section (1) (b)— 20
- (a) must contain information determined by the Treasurer to be appropriate; and
- (b) must be prepared in a manner and form approved by the Treasurer; and
- (c) must present fairly the results of the financial transactions of the institution during the financial year to which they relate and the financial position as at the end of that year; and 25
- (d) must be signed by the principal accounting officer (by whatever name called) of the institution and by the Chairperson and another member of the council who shall— 30
- (i) state whether, in their opinion, the financial statements present fairly the results of the financial transactions of the institution during the financial year to which they relate and 35

whether they sufficiently explain the financial position of the institution as at the end of the financial year; and

5 (ii) state whether, at the date of signing the financial statements, they were aware of any circumstances that render any particulars included in the statements misleading or inaccurate and, if so, particulars of the circumstances; and

10 (e) be audited as required by section 19 (1).

(4) The Minister must cause each annual report submitted to the Minister under this section to be laid before the Legislative Council and the Legislative Assembly before the expiration of the seventh sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the annual report has been received by the Minister.

15 (5) If the Council fails to submit an annual report to the Minister—

20 (a) if an extension has not been granted under sub-section (7)—by 30 September in any year; or

(b) if such extension has been granted—by the date to which the extension was granted—

25 the Minister must report or cause to be reported that failure and the reasons for the failure to each House of Parliament.

(6) The council may apply in writing to the Minister for an extension of the date by which an annual report is to be submitted to the Minister.

30 (7) The Minister may in writing grant to the council an extension to such date as the Minister determines.

(8) The Minister must advise or cause to be advised each House of the Parliament of each extension granted under this section and the reasons for the extension.

35 (9) This section does not apply to the institution if, as a result of an order made under the **Annual Reporting**

Act 1983, the institution is required to submit an annual report under that Act.

19. *Audit*

- (1) The financial statements referred to in section 18 must be audited by the Auditor-General. 5
- (2) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.
- (3) Without limiting the generality of sub-section (2), the Auditor-General and each other officer of the Auditor-General— 10
 - (a) has the right of access at all times to the books of the institution; and
 - (b) may require from an officer or employee of the institution any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit. 15
- (4) The council must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General. 20

20. *Continuation of Ballarat University College*

- (1) The Order in Council incorporating the council of Ballarat University College made under section 23 of the **Post-Secondary Education Act 1978** and published in the Government Gazette on 30 October 1975 as amended by the Order in Council published in the Government Gazette on 23 May 1990 continues in all respects as if had been made under section 15 and, without limiting the generality of the foregoing, the council incorporated by the order is deemed by this section to have been incorporated under this Act. 25
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- 5 (2) The Order in Council made under section 38 of the **Post-Secondary Education Act 1978** published in the Government Gazette on 23 May 1990 which conferred power on Ballarat University College to award degrees or diplomas continues in all respects as if it had been made under section 16.

PART 4—GENERAL

21. Delegation

10 The Minister may, by instrument in writing, delegate to any body established under section 4 or an executive officer within the meaning of the **Public Sector Management Act 1992** any of the Minister's powers or functions under section 6, 10, 11 or 26 or any Order in Council continued under section 20.

22. Regulations

15 The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

PART 5—ABOLITION OF POST-SECONDARY EDUCATION COMMISSION

23. Repeal

The **Post-Secondary Education Act 1978** is repealed.

No. 9145.
Reprinted to
No. 91/1990.
Subsequently
amended by
Nos 33/1991,
41/1991,
69/1991,
91/1991,
10/1992,
44/1992,
45/1992 and
83/1992.

24. Abolition of Post-Secondary Education Commission

- 25 (1) The Victorian Post-Secondary Education Commission is abolished and its commissioners go out of office.
- (2) All rights, property and assets that, immediately before the commencement of this section, were vested in the

Commission are, by force of this sub-section, vested in the Crown.

- (3) All debts, liabilities and obligations of the Commission existing immediately before the commencement of this section become, by force of this sub-section, debts, liabilities, and obligations of the Crown. 5
- (4) The Minister is, by force of this sub-section, substituted as a party to any proceedings pending in any court to which the Commission was a party immediately before the commencement of this section. 10
- (5) The Minister is, by force of this sub-section, substituted as a party to any arrangement or contract entered into by or on behalf of the Commission as a party and in force immediately before the commencement of this section. 15
- (6) Any act, matter or thing done by or in relation to the Commission before the commencement of this section has effect as if it had been done by or in relation to the Minister and continues to have the same effect after that commencement as it had before then. 20
- (7) Any reference to the Commission or the Chairman, Deputy Chairman or a commissioner in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document whatsoever shall, so far as it relates to any period after the commencement of this section and if not inconsistent with the context or subject-matter, be construed as a reference to the Minister. 25

25. Annual report of abolished Commission

- (1) The Minister must cause to be prepared and laid before each House of the Parliament the report referred to in section 21 of the **Post-Secondary Education Act 1978** for the period ending on the commencement of this section. 30
- (2) Section 21 of the **Post-Secondary Education Act 1978** continues to apply to the Minister in relation to the preparation and tabling of that report. 35

26. *Post-graduate courses at Swinburne University of Technology*

Despite the repeal of Division 3 of Part II of the **Post-Secondary Education Act 1978**, that Division and section 56 of the **Swinburne University of Technology Act 1992** continue to apply to courses of study undertaken at Swinburne University of Technology until the transfer day within the meaning of section 60 of the **Swinburne University of Technology Act 1992** as if a reference to the Victorian Post-Secondary Commission were a reference to the Minister.

PART 6—CONSEQUENTIAL AMENDMENTS

27. *New Division 2A inserted in Adult, Community and Further Education Act*

No. 91/1991.

After section 13 of the **Adult, Community and Further Education Act 1991** insert—

“**Division 2A—Accreditation of courses**

13A. Investigation of courses by Board

(1) The Board may investigate any course in further education to determine whether—

(a) it should be registered as accredited on the State Register of Accredited Courses maintained under section 78A of the **Vocational Education and Training Act 1990**; or

(b) it should be noted on the State Register of Accredited Courses as being equivalent to the whole or part of an accredited course.

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- (2) The Board may investigate any further education course which is registered as accredited to determine whether—
- (a) it should continue to be registered as accredited; or 5
 - (b) it should continue to be noted on the State Register of Accredited Courses as being equivalent to the whole or part of an accredited course; 10
- (3) If the Board investigates a further education course under sub-section (1) (a) or (2) (a) it must prepare a written report on the content and educational standard of the course. 15
- (4) The Board may charge a reasonable fee for an investigation under sub-section (1).
- (5) Any fee charged under sub-section (1) is payable by the institution or organisation which offers or proposes to offer the course which is investigated. 20
- (6) After a course has been investigated the Board must notify the State Training Board that the course— 25
- (a) should be registered as accredited on the State Register of Accredited Courses or struck off the Register; or
 - (b) should be noted on the Register as being equivalent to the whole or a specified part of an accredited course or that the note should be removed from the Register. 30
- 13B. Further education accreditation boards** 35
- (1) The Governor in Council may, on the recommendation of the Board, from time

to time, by Order establish further education accreditation boards.

(2) The functions of a further education accreditation board are—

(a) to provide advice to the Board about accreditation of further education courses relevant to the sector for which the accreditation board is established;

(b) to exercise any of the powers or functions—

(i) of the Board that are delegated to it under section 27; or

(ii) of the State Training Board that are delegated to it under section 20 (1A) of the **Vocational Education and Training Act 1990**.”.

28. Amendment of Adult, Community and Further Education Act and saving

(1) In the **Adult, Community and Further Education Act 1991**—

(a) in section 3 in the definition of “TAFE” for “the **Post-Secondary Education Act 1978**” substitute “the **Tertiary Education Act 1993**”;

(b) in section 3 the definition of “**Victorian Post-Secondary Education Commission**” is repealed;

(c) in section 10 (2) for “the **Post-Secondary Education Act 1978**” substitute “the **Tertiary Education Act 1993**”;

(d) in section 19 (1) (a), for paragraph (vi) substitute—

“(vi) one member is to be a person with knowledge and experience of post-secondary education nominated by the Minister for the

Tertiary Education

- time being administering the **Tertiary Education Act 1993**;
- (e) in section 27 (h) **omit** “or section 18 or 19 of the **Post-Secondary Education Act 1978**”;
- (f) in section 27 (j), for “established under section 15A of the **Post-Secondary Act 1978**” substitute “established under section 4 of the **Tertiary Education Act 1993**”; 5
- (g) in section 27, after paragraph (j) **insert**—
- “; or 10
- (k) a further education accreditation board established under section 13B or the Vocational Education and Training Accreditation Board or an industry training accreditation board established under the **Vocational Education and Training Act 1990**.” 15
- (h) in section 28 (1) (g)—
- (i) **omit** “or Victorian Post-Secondary Education Commission”; and 20
- (ii) **omit** “or the Chairman of that Commission”;
- (i) in section 28 (1) (h) **omit** “or section 18 or 19 of the **Post-Secondary Education Act 1978**”;
- (j) in section 28 (1) (j) for “under section 15A of the **Post-Secondary Education Act 1978**” substitute “under section 4 of the **Tertiary Education Act 1993**”; 25
- (k) in section 29 (e)—
- (i) **omit** “or the Victorian Post-Secondary Education Commission”; and 30
- (ii) **omit** “or the Chairman of that Commission”;
- (l) in section 29 (f) **omit** “or section 18 or 19 of the **Post-Secondary Education Act 1978**”;
- (m) in section 29 (h), for “under section 15A of the **Post-Secondary Education Act 1978**” substitute “under section 4 of the **Tertiary Education Act 1993**”; 35

(n) section 49 is **repealed**.

- (2) Despite the commencement of sub-section (1) (d) the Adult, Community and Further Education Board as it is constituted after the commencement of sub-section (1) (d) is to be taken to be the same body as the Adult, Community and Further Education Board as it was constituted immediately before that commencement.

29. Consequential amendments to the Vocational Education and Training Act

No. 45/1990
amended by
Nos 21/1990,
91/1991,
44/1992,
45/1992,
52/1992 and
83/1992.

- (1) In the **Vocational Education and Training Act 1990**—

(a) in section 3, for the definition of “**Technical and further education**” substitute—

“**technical and further education**” has the same meaning as in the **Tertiary Education Act 1993**;”;

(b) in section 3, in the definition of “**TAFE college**”, for “the **Post-Secondary Education Act 1978**” substitute “the **Tertiary Education Act 1993**”;

(c) in section 5 (2) for “the **Post-Secondary Education Act 1978**” substitute “the **Tertiary Education Act 1993**”;

(d) in section 13 (1)—

(i) for “16 members of whom 15 members are” substitute “15 members”; and

(ii) **omit** “and one is the person holding the office of Chairman of the Victorian Post-Secondary Education Commission”;

(e) in section 20 (4) for “the Victorian Post-Secondary Education Commission or a body established under section 15A of the **Post-Secondary Education Act 1978**” substitute “a body established under section 4 of the **Tertiary Education Act 1993**,”;

(f) in section 24 (4) after “**Post-Secondary Education Act 1978**” insert “or the **Tertiary Education Act 1993**”.

- (2) After section 20 (1) of the **Vocational Education and Training Act 1990** insert—

“(1A) The Board may, by instrument under its common seal, delegate to a further education accreditation board established under section 13B of the **Adult, Community and Further Education Act 1991** any power or function of the Board under section 74.”.

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- (3) Despite the commencement of sub-section (1) (d) the State Training Board as it is constituted after the commencement of sub-section (1) (d) is to be taken to be the same body as the State Training Board as it was constituted immediately before that commencement.

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30. Accreditation of further education courses

In section 75 of the **Vocational Education and Training Act 1990**—

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(a) in sub-section (2) (a) after “training” insert “or further education”;

(b) in sub-section (2) (b) after “training” insert “and to the Adult, Community and Further Education Board in relation to further education”;

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(c) in sub-section (2) (c)—

(i) after “Act” insert “and the **Adult, Community and Further Education Act 1991**”;

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(ii) after “Board” insert “and the Adult, Community and Further Education Board”;

(d) after paragraph (d) insert—

“; and

(e) to exercise any of the powers of the Adult, Community and Further Education Board that are delegated to the Accreditation Board under section 27 of the **Adult, Community and Further Education Act 1991**”.

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- (e) in section 75 (5) (a) after “training” **insert** “and further education”;
- (f) in section 76 (2) after paragraph (b) **insert—**
“; and
- (c) to exercise any of the powers of the Adult, Community and Further Education Board that are delegated to it under section 27 of the **Adult, Community and Further Education Act 1991.**”.

31. New section 78A inserted, consequential and savings

- (1) After section 78 of the **Vocational Education and Training Act 1990 insert—**

“78A. State Register of Accredited Courses

- (1) The Board must maintain a State Register of Accredited Courses.

- (2) If—

- (a) the Board or a delegate of the Board determines that a course should be registered as accredited or noted on the State Register of Accredited Courses as being equivalent to the whole or part of an accredited course; or

- (b) the Board receives advice from a TAFE college or TAFE institution under section 77 (1) that a course should be registered as accredited; or

- (c) the Board receives advice from the Adult, Community and Further Education Board under section 13A of the **Adult, Community and Further Education Act 1991** or a delegate of that Board that a further education course should be registered as accredited—

the Board must register the course as accredited on the State Register of Accredited Courses or note on the Register that the course is equivalent to the whole or part of an accredited course.

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(3) If—

(a) the Board or a delegate of the Board determines that a course should be struck off the Register; or

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(b) the Board receives advice from a TAFE college or TAFE institution under section 77 (1) that a course should be struck off the Register; or

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(c) the Board receives advice from the Adult, Community and Further Education Board under section 13A of the **Adult, Community and Further Education Act 1991** or a delegate of that Board that a further education course should be struck off the Register—

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the Board must strike the course off the Register or remove any note on the Register that the course is the equivalent to the whole or a part of an accredited course.

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(4) The Board may do any of the things referred to in sub-sections (2) and (3) in relation to a course whether or not the course has been investigated under section 74.”.

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(2) In the **Vocational Education and Training Act 1990**—

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(a) in section 73, for the definition of “State Register of Accredited Courses” **substitute**—

‘**“State Register of Accredited Courses”** means the State Register of Accredited Courses maintained by the Board under section 78A;’;

(b) in sections 75 (2) (d) and (7) and 76 (2) (b) and (7) omit “or 78”;

(c) section 78 (2) and (3) are **repealed**.

(3) Any vocational education and training course or further education course which was, immediately before the commencement of this section, registered or noted on the State Register of Accredited Courses maintained under section 36 of the **Post-Secondary Education Act 1978** is deemed to be registered or noted on the State Register of Accredited Courses maintained under section 78A of the **Vocational Education and Training Act 1990**.

32. *Consequential amendments*

In the **Vocational and Education and Training Act 1990**—

(a) in section 80 (1) (b) and (2) (b) for **“Post-Secondary Education Act 1978”** substitute **“Tertiary Education Act 1993”**; and

(b) in section 82—

(i) for **“section 36 of the Post-Secondary Education Act 1978”** substitute **“section 78A”**;

(ii) in paragraph (a) for **“Post-Secondary Education Act 1978”** substitute **“Tertiary Education Act 1993”**;

(c) in section 83 for **“section 36 of the Post-Secondary Education Act 1978”** substitute **“section 78A”**;

(d) in section 85 (10) for paragraph (b) of the definition of **“course”** substitute—

“(b) endorsed under section 6 of the “Tertiary Education Act 1993”.;

(e) Division 2 of Part 9 is **repealed**.

No. 6240.
Reprinted to
No. 45/1990.

33. *Education Act 1958*

In the **Education Act 1958**—

(a) for section 21 (2) **substitute**—

“(2) The Minister must not establish a State school or a class in a State school to provide post-secondary education unless he or she has consulted with the Minister administering the **Tertiary Education Act 1993**.”;

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(b) in section 35 (a) for “**Post-Secondary Education Act 1978**” substitute “**Tertiary Education Act 1993**”.

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No. 50/1988
as amended
by Nos
81/1988,
19/1989,
20/1989,
44/1989,
57/1989,
64/1989,
72/1990,
49/1992 and
87/1992.

34. *State Superannuation Act 1988*

In the **State Superannuation Act 1988**, in section 3 (1) in paragraph (b) of the definition of “**Officer**” for “**Post-Secondary Education Act 1978**” substitute “**Tertiary Education Act 1993**”.

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SCHEDULES

SCHEDULE 1

Universities

The University of Melbourne
Monash University
La Trobe University
Deakin University
Victoria University of Technology
Australian Catholic University Limited
Swinburne University of Technology
Royal Melbourne Institute of Technology



SCHEDULE 2

Autonomous College

Ballarat University College

