

# Post-Secondary Education (Amendment) Bill

## EXPLANATORY MEMORANDUM

*Clause 1* is a provision in the usual form providing for the short title and commencement of the Act. The several provisions of the Act may be brought into operation separately. The *Post-Secondary Education Act 1978* is the Principal Act. The Act is divided into two parts. Part I. amends the Principal Act, and Part II. contains certain repeals, consequential amendments and transitional provisions.

*Clause 2* makes certain amendments to the Principal Act.

*Sub-clause 1* substitutes a new sub-section (2) of section 1 of the Principal Act. The new sub-section sets out the way in which the Principal Act is divided up.

*Sub-clause 2* inserts a new section 4A into the Principal Act. The new section provides for the audit of the accounts of the Commission by the Auditor-General.

*Sub-clause 3* inserts a new paragraph (ca) into section 5 (1) of the Principal Act. The new paragraph makes it a function of the Commission to make recommendations to the Governor in Council concerning certain matters.

*Sub-clause 4* inserts a new section 5A into the Principal Act. The new section requires the Commission to take possession of all records of the Victoria Institute of Colleges and the State College of Victoria relating to degrees and diplomas awarded by those bodies. The new section will be brought into operation when those bodies cease to exist (see clause 3).

*Sub-clause 5* inserts a new section 15A into the Principal Act. The new section will allow the Governor in Council to constitute a Board, committee or other body to exercise functions of the Commission that are delegate to it.

*Sub-clause 6* substitutes a new section 17 for section 17 of the Principal Act. The new section will allow the Commission to establish committees to advise or assist it in performing its functions.

*Sub-clause 7* inserts a new sub-section (2) at the end of section 19 of the Principal Act. The new sub-section will allow the Commission to enter into contracts and agreements with outside organisations for making reports, surveys and investigations.

*Sub-clause 8* amends section 20 (2) of the Principal Act, so that instead of referring to a "class of post-secondary education institution" it will refer to a "group of post-secondary education institutions".

*Sub-clause 9* substitutes a new Part II. in the Principal Act. The new Part II. is divided into four Divisions and contains sections 22 to 33.

*Section 22* re-enacts part of the existing section 22 of the Principal Act. It requires a post-secondary education institution or an authority responsible for any group of post-secondary education institutions to give the Commission notice before making representations to a Commonwealth body.

*Section 23* allows the governing body of a post-secondary education institution to become incorporated.

*Sub-section (1)* allows a governing body of an institution to apply to the Commission for incorporation as a council.

*Sub-section (2)* allows the Governor in Council to incorporate a council of a post-secondary education institution and make provision for its constitution.

*Sub-section (3)* sets out the consequences of incorporation of a council.

*Sub-section (4)* allows the Governor in Council, at the request of the council concerned, to alter the constitution of the council.

*Sub-section (5)* provides for the continuing identity of a council whose constitution is altered.

*Sub-section (6)* provides that the Governor in Council shall not revoke an order incorporating a council without the consent of the council.

*Section 24* deals with incorporation orders made under the *Victoria Institute of Colleges Act 1965* and the *State College of Victoria Act 1972*.

*Sub-section (1)* provides that each such order shall continue in operation as if it had been made under section 23.

*Sub-section (2)* requires the Commission to review every such order within twelve months of the commencement of the section.

*Sub-section (3)* allows the Governor in Council, within 12 months of the commencement of the section, to make changes to such an order without the consent of the council concerned.

*Section 25* provides for the amalgamation of councils incorporated under the Principal Act and sets out the consequences of such an amalgamation.

*Section 26* sets out certain effects of orders made under sections 23 and 25.

*Sub-section (1)* deals with the effects of orders incorporating a council.

*Sub-section (2)* deals with the effects of orders amalgamating two or more councils.

*Sub-section (3)* provides that the section is not to apply the Crown lands vested in trustees for the purposes of an institution.

*Section 27* requires a council incorporated under the Principal Act to keep proper accounts and provides for the audit of those accounts each year by the Auditor-General.

*Section 28* applies the Principal Act to certain post-secondary education institutions.

*Sub-section (1)* provides that the institutions mentioned in Schedule 1 of the Principal Act (which is inserted into the Principal Act by sub-clause (10) of clause 2) are institutions to which the Principal Act applies.

*Sub-section (2)* provides that the Principal Act is to apply to post-secondary education institutions even if they are not mentioned in Schedule 1. The effect of inclusion in Schedule 1 is therefore to put it beyond doubt that the institutions mentioned in it are post-secondary education institutions.

*Sub-section (3)* allows the Governor in Council, after application by the governing body of the institution concerned and with the consent of the Commission, to include the name of an institution in Schedule 1.

*Sub-section (4)* provides that the Governor in Council is not to remove the name of an institution from Schedule 1 except in the circumstances specified in the following sub-sections.

*Sub-section (5)* provides that the name of an institution may be removed from Schedule 1 if the institution applies to have its name removed or if the institution ceases to provide post-secondary education.

*Sub-sections (6) and (7)* allow the Governor in Council to amend Schedule 1 in consequence of the change of name of an institution or the amalgamation of two or more institutions.

*Section 29* deals with the approval and accreditation of courses.

*Sub-section (1)* requires a post-secondary education institution which proposes to offer a new course of study or make a fundamental change to an existing course of study to apply in writing to the Commission for approval of the proposal.

*Sub-section (2)* allows the Commission to approve or refuse to approve the proposal.

*Sub-section (3)* allows the Commission to refer the proposal to the Accreditation Board established under section 30.

*Sub-section (4)* provides that if the Accreditation Board recommends that the Commission should approve the proposal, the Commission shall approve the proposal.

*Sub-section (5)* forbids an institution to offer a new course of study or make a fundamental change to an existing course of study without the approval of the Commission.

*Section 30* provides for the constitution of an Accreditation Board.

*Sub-section (1)* allows the Governor in Council to appoint eight persons to the Board.

*Sub-section (2)* requires the Governor in Council to ensure that the members of the Board represent the range of interests involved in post-secondary education.

*Sub-section (3)* allows the Governor in Council to appoint a chairman and a deputy chairman.

*Sub-section (4)* provides that the chairman shall have a casting vote.

*Sub-section (5)* provides for the payment of fees and allowances to members of the Board.

*Sub-section (6)* provides that five members shall constitute a quorum.

*Sub-section (7)* requires the chairman to convene all necessary meetings of the Board.

*Sub-section (8)* provides for the deputy chairman to act as chairman when the chairman is unavailable.

*Sub-section (9)* allows the Governor in Council to remove a member from office at any time.

*Sub-section (10)* allows the Board to regulate its own procedure.

*Sub-section (11)* allows the Governor in Council to dissolve the Board at any time.

*Section 31* sets out the functions of the Accreditation Board.

*Sub-section (1)* requires the Accreditation Board to consider each application for course approval referred to it under section 29 (3).

*Sub-section (2)* requires the Board when considering any such application, to have regard to the content of the proposed course.

*Sub-section (3)* requires the Board to make an annual report.

*Sub-section (4)* requires the Board to make other reports as requested.

*Sub-section (5)* allows other functions to be imposed on the Board by regulation.

*Section 32* allows the Governor in Council to confer upon the governing body of a post-secondary education institution the power to award a specified degree or diploma, subject to terms and conditions.

*Section 33* is a regulation-making power in the usual form.

*Sub-clause (10)* inserts Schedule 1 into the Principal Act. The schedule contains the names of certain post-secondary education institutions (see proposed section 28).

*Clause 3* makes certain repeals.

*Sub-clause (1)* repeals the *Victoria Institute of Colleges Act 1965* and the *State College of Victoria Act 1972*. Each provision of those Acts may be repealed separately.

*Sub-clause (2)* repeals certain enactments which are spent.

*Clause 4* contains transitional provisions consequent upon the repeal of the *Victoria Institute of Colleges Act 1965* and the *State College of Victoria Act 1972*. *Sub-clause (2)* vests the property of the Institute and the State College

in the Commission. *Sub-clause (3)* makes the staff of the Institute and its affiliated colleges and the State College and its constituent colleges eligible for re-employment in the public service or, if they are qualified, the teaching service.

*Clause 5* is another transitional provision. It provides that where power is conferred on an affiliated college of the Victoria Institute of Colleges or a constituent college of the State College of Victoria to award a degree or diploma, persons enrolled at the college must accept the award of their degree or diploma from the college and not the Institute or the State College.

*Clause 6* is a transitional provision which requires the Council of the Victoria Institute of Colleges to call in all investments made by it of moneys standing to the credit of its Students' Loan Fund and distribute them to its affiliated colleges.

*Clause 7* makes consequential amendments to the *Education Act 1958*.

*Clause 8* makes consequential amendments to the *Road Traffic Act 1958*.