Version No. 030 Adult, Community and Further Education Act 1991

Act No. 91/1991

Version incorporating amendments as at 19 March 1998

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Version No. 030

Adult, Community and Further Education Act 1991

Act No. 91/1991

Version incorporating amendments as at 19 March 1998

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purposes

The purposes of this Act are—

- (a) to make provision with respect to Adult, Community and Further Education; and
- (b) to establish an Adult, Community and Further Education Board; and
- (c) to establish Adult, Community and Further Education Regions and Regional Councils; and
- (d) to establish systems which will enable users and providers of adult, community and further education to advise government on the needs of adult, community and further education and the action necessary to meet those needs; and
- (e) to establish systems to ensure effective coordination of and planning of adult, community and further education in Victoria;
 and
- (f) to make consequential amendments to other Acts.

2. Commencement

This Act comes into operation on a day or days to be proclaimed.

3. Definitions

In this Act—

"adult, community and further education"

means-

- (a) further education; and
- (b) full-time secondary education for adults; and
- (c) that part of vocational education and training which is covered by paragraph (a) of the definition of vocational education and training when it is provided by a community based organisation which is not a TAFE college, commercial provider or industry provider;
- "Council of Adult Education" means the Council of Adult Education established under section 3 of the Council of Adult Education Act 1981;
- "further education" has the same meaning as in the Vocational Education and Training Act 1990;

"Government office" means—

(a) an office under the Crown in right of the State of Victoria (not being an office in the public service) to which the right to appoint is vested in the Governor in Council; or

- (b) an office of a member, acting member or deputy member of a public statutory body, whether corporate or unincorporate, to which the right to appoint is vested in the Governor in Council;
- "State Training Board" means the State
 Training Board established under the
 Vocational Education and Training Act
 1990;
- "TAFE" means technical and further education within the meaning of the Tertiary Education Act 1993;

S. 3 def. of "TAFE" amended by No. 18/1993 s. 28(1)(a).

"TAFE college" has the same meaning as in the Vocational Education and Training Act 1990;

* * * * *

S. 3 def. of "Victorian Post-Secondary Education Commission" repealed by No. 18/1993 s. 28(1)(b).

"vocational education and training" has the same meaning as in the Vocational Education and Training Act 1990.

4. Objects

The adult, community and further education objects are—

(a) to provide for and promote learning opportunities for adults in a manner and setting appropriate to their needs; and

- (b) to support and strengthen the capacity of local communities to respond to and meet the educational needs of members of their communities; and
- (c) to provide opportunities for adults to prepare for and undertake formal education; and
- (d) to meet diverse individual and community needs by providing for and promoting, amongst other things—
 - (i) the community based direction and management of adult, community and further education; and
 - (ii) a range of flexible quality programs which are responsive to individual and community needs including adult literacy and basic education, adult participation in the final years of secondary education, English as a second language for adults, liberal arts programs, programs directed towards the development of self expression and creativity, personal development programs and general educational programs for adults; and
 - (iii) additional opportunities for adults to complete the equivalent of a full secondary education; and
 - (iv) equitable access to educational programs; and
 - (v) a variety of methods by which programs are implemented; and
 - (vi) a variety of places at which programs are implemented; and

s. 4

- (vii) the cross-crediting and linking of adult, community and further education courses and courses provided by other sectors of education; and
- (viii) the recognition of prior learning.

PART 2—ADULT, COMMUNITY AND FURTHER EDUCATION BOARD

Division 1—Establishment, Powers and Functions of the Board

5. The Adult, Community and Further Education Board

- (1) There is established a Board to be called the Adult, Community and Further Education Board.
- (2) The Board—
 - (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.
- (3) The common seal must be kept as directed by the Board and must only be used as authorised by the Board.
- (4) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

6. Functions of the Board

- (1) The functions of the Board with respect to adult, community and further education that is not provided by TAFE colleges, are—
 - (a) to inquire into and make reports on the general development of policies, programs and services, having regard to, amongst other things—
 - (i) the needs of the community; and
 - (ii) the establishment of objectives and priorities; and
 - (iii) the promotion of an awareness of the importance of adult, community and further education; and
 - (iv) the adequacy of arrangements for persons who have not had or do not have access to education programs and who wish to participate in adult, community and further education programs; and
 - (v) the role of government in supporting community initiative in planning developing and providing adult, community and further education; and
 - (b) to plan, develop, evaluate and fund, policies, programs and services for the co-ordination, provision and support of adult, community and further education having regard to—
 - (i) the promotion of individual and community development through those policies, programs and services; and
 - (ii) the development and maintenance of the quality of and equitable access to those programs and services; and

- (c) to provide for the delivery of adult, community and further education; and
- (d) to advise the Minister on any matter relating to adult, community and further education; and
- (e) to provide educational programs where directed by the Minister or so as to comply with any agreement or arrangement between the State and the Commonwealth or any other State or Territory of the Commonwealth; and
- (f) to promote research and development into matters relating to adult, community and further education; and
- (g) to promote public awareness of adult, community and further education; and
- (h) to carry out any other function that is conferred on the Board by this or any other Act.
- (2) The functions of the Board with respect to all adult, community and further education are to act jointly with the State Training Board—
 - (a) to plan for all adult, community and further education in the State including—
 - (i) analysing the needs of the community for adult, community and further education; and
 - (ii) deciding what priority is to be given to these needs; and
 - (iii) establishing objectives and targets in order to meet these needs; and

(b) to establish systems to achieve co-operation between the two Boards in relation to, among other things, planning, curriculum development, accreditation, cross-crediting and linking of courses and recognition of prior learning for adult, community and further education.

7. Powers of the Board

- (1) The Board has power to do everything that is necessary or convenient for it to do for or in connection with the performance of its functions including any function delegated to it.
- (2) In addition to the powers set out in sub-section (1) the Board may—
 - (a) be a member of a company, association, trust or partnership; and
 - (b) form or participate in the formation of a company, association, trust or partnership; and
 - (c) enter into a joint venture with any other person or persons; and
 - (d) apply for, obtain and hold, whether on its own behalf or jointly with any other person, any intellectual property rights; and
 - (e) assign or grant licences in respect of those intellectual property rights, with or without charge; and
 - (f) enter into agreements and arrangements for the commercial exploitation of intellectual property rights; and
 - (g) charge fees for adult, community and further education services provided by the Board.

8. Board to consult

In carrying out its functions and exercising its powers, the Board must—

- (a) give effect to the adult, community and further education plan; and
- (b) have regard to the advice of a Regional Council of Adult, Community and Further Education on any matter relating to adult, community and further education in that Region; and
- (c) consult, as a matter of general practice, with—
 - (i) the Regional Councils; and
 - (ii) the Council of Adult Education; and
 - (iii) the Councils of TAFE colleges; and
 - (iv) any person or organisation providing or using adult, community and further education—

on any matter of general concern about adult, community and further education; and

(d) ensure that its actions are consistent with the arrangements for the provision of vocational education and training.

9. Financial powers

The Board—

- (a) may apply money for or towards the costs of or incidental to the performance of its functions and the exercise of its powers under this Act; and
- (b) may make payments by way of grants, subsidies or loans in relation to adult, community and further education to any

- person, organisation or institution, whether public or private, on any terms or conditions that the Board thinks fit; and
- (c) may make payments by way of grants, subsidies or loans in relation to adult, community and further education to a Council of a TAFE college and any such payment—
 - (i) must be consistent with the adult, community and further education plan; and
 - (ii) must be made on any terms and conditions that the Board thinks fit; and
- (d) may make payments to a Regional Council in accordance with a performance agreement entered into under section 11;
- (e) may make payments by way of grants, subsidies or loans in relation to education other than adult, community and further education and any such payment—
 - (i) must not be made unless the Minister has first given his consent to it; and
 - (ii) is subject to any terms and conditions imposed by the Minister.

Division 2—Guidelines, Agreements and Plans

10. Ministerial guidelines or directions

(1) The Minister after consulting with or considering the advice of the Board may issue written guidelines or directions on any matter relating to adult, community and further education or the operation of Regional Councils of Adult, Community and Further Education.

S. 10(2) amended by

No. 18/1993

Parliamentary Documents S. 12(1) ₹ S. 12(3A)

- (2) If the Minister considers that a guideline or direction will affect post-secondary education or vocational education and training or other sectors of education, the Minister must consult with the Minister for the time being administering the Tertiary Education Act 1993 or the Minister for the time being administering the Education Act 1958 or the Minister for the time being administering the Vocational Education and Training Act 1990 (whichever is appropriate).
- (3) The Board and any Regional Council must observe and give effect to any guideline or direction issued under this section when exercising its functions or powers under this Act.

11. Performance agreements

The Board may enter into a performance agreement with a Regional Council of Adult, Community and Further Education with respect to that Council's functions under this Act.

12. Adult, community and further education plan

- (1) The Board and the State Training Board must jointly prepare an adult, community and further education plan.
- (2) In developing the plan the Board must have regard to any regional plan for adult, community and further education developed by a Regional Council of Adult, Community and Further Education.
- (3) The first plan must be made immediately upon the coming into operation of this section and a new plan must be made at the end of every three years after that.
- (3A) Nothing in sub-section (3) prevents a new plan from being made before the end of three years.

S. 12(3A) inserted by No. 80/1997 s. 38(2).

s. 13

- (4) Before making a new plan, the Board and the State Training Board must jointly evaluate the previous plan.
- (5) Each plan must be reviewed at regular intervals not exceeding 3 years after the making of the last plan.

S. 12(5) substituted by No. 80/1997 s. 38(3).

- (6) A plan may be amended at any time.
- (7) If the Board and State Training Board are unable to agree upon the making or amendment of a plan it must be determined by the Ministers for the time being responsible for the administration of this Act and the Act under which the State Training Board is established.

S. 12(7) amended by No. 80/1997 s. 38(4).

13. Implementation of the plan

The Board and the State Training Board must give effect to the plan.

Division 2A—Accreditation of courses

Pt 2 Div. 2A (Heading and ss 13A, 13B) inserted by No. 18/1993 s. 27.

13A. Investigation of courses by Board

- inserted by No. 18/1993 s. 27.
- (1) The Board may investigate any course in further education to determine whether—
- S. 13A(1)(a) amended by No. 80/1997 s. 39.

S. 13A

- (a) it should be registered as accredited on the State Register of Accredited Courses and Recognised Qualifications maintained under section 78A of the Vocational Education and Training Act 1990; or
- S. 13A(1)(b) amended by No. 80/1997 s. 39.
- (b) it should be noted on the State Register of Accredited Courses and Recognised Qualifications as being equivalent to the whole or part of an accredited course.

- (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
 - (b) it should continue to be noted on the State Register of Accredited Courses and Recognised Qualifications as being equivalent to the whole or part of an accredited course.
- (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.
- (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.
- (6) After a course has been investigated the Board must notify the State Training Board that the course-
 - (a) should be registered as accredited on the State Register of Accredited Courses and Recognised Qualifications 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.

s. 13B

13B. Minister may establish further education recognition boards

- (1) The Minister may, by Order published in the Government Gazette, establish further education recognition boards.
- (2) The functions of a further education recognition board are—
 - (a) to provide advice to the Board about the accreditation of further education courses and the registration of community providers of further education; and
 - (b) to exercise any of the Board's powers or functions of the Board that are delegated to its members under section 27; and
 - (c) to exercise any of the powers or functions of the State Training Board that are delegated to its members under section 20(1)(g) of the Vocational Education and Training Act 1990.
- (3) If a majority of the members of a further education recognition board for the time being holding office so agree, a meeting of the further education recognition board may be held by means of a method of communication, or by means of a combination of methods of communication, approved by the further education recognition board for the purposes of that meeting.
- (4) For the purposes of this section, a member of a further education and training recognition board who participates in a meeting held as permitted by sub-section (3) is present at the meeting even if he or she is not physically present at the same place as another member participating in the meeting.
- (5) In this section "meeting" includes part of a meeting.

S. 13B inserted by No. 18/1993 s. 27, amended by No. 62/1994 s. 56, substituted by No. 80/1997 s. 40. s. 13C

s. 13C inserted by No. 62/1994 Sp. 57.

13C. Accreditation of courses

A further education course may be accredited or noted as being equivalent to the whole or part of an accredited course under this Division if—

- (a) the contents and standards of the course are appropriate to the qualification (if any) to which it leads; and
- (b) the course and the methods adopted in delivering it are likely to achieve the purposes of the course; and
- (c) the contents and standards of the course and the methods adopted in delivering it are consistent with relevant national standards about principles, processes or other matters to be applied in accrediting or noting the course.

Division 2B—Approval to deliver courses¹

Pt 2 Div. 2B (Heading and ss 13D–13F) inserted by No. 62/1994 s. 58.

S. 13D Oinserted by No. 62/1994 s. 58.

13D. Registration of community providers of further education

- (1) Any person or body which is community based and which is not a TAFE college, commercial provider or industry provider that provides or proposes to provide a further education course registered as accredited under section 78A of the **Vocational Education and Training Act 1990** may apply to the Board for registration.
- (1A) Any person or body which is community based and which is not a TAFE college, commercial provider or industry provider that proposes to award, confer or issue a recognised qualification may apply to the Board for registration.

S. 13D(1A) inserted by No. 80/1997 s. 41(1).

S. 13D(2) amended by No. 80/1997

s. 41(2).

s. 13D

(2)	A registration may be limited or restricted by
	reference to the course or class of courses or
	qualification or classes of qualifications
	determined by the Board or any other
	circumstances determined by the Board.

(3) In determining whether to register a person or body the Board may have regard to government policies and priorities, any national standard relating to the recognition of providers and to all or any of the following matters in relation to the person, body or course—

(a) financial standards;

S. 13D(3)(a) substituted by No. 80/1997 s. 41(3).

(b) marketing and promotion;

S. 13D(3)(b) substituted by No. 80/1997 s. 41(3).

(c) recruitment and selection of students;

S. 13D(3)(c) substituted by No. 80/1997 s. 41(3).

(d) class sizes;

S. 13D(3)(d) substituted by No. 80/1997 s. 41(3).

(e) delivery and assessment of training;

S. 13D(3)(e) substituted by No. 80/1997 s. 41(3).

(f) premises, equipment, materials and resources;

S. 13D(3)(f) substituted by No. 80/1997 s. 41(3).

s. 13D

		ACI 110. 91	1/1991		
S. 13D(3)(g) substituted by No. 80/1997 s. 41(3).	(g)	issuing of qual	ifications;		
S. 13D(3)(h) substituted by No. 80/1997 s. 41(3).	(h)	qualifications a	and experie	nce of sta	ff;
S. 13D(3)(i) substituted by No. 80/1997 s. 41(3).	(i)	contracts with	respect to s	tudents;	
S. 13D(3)(j) substituted by No. 80/1997 s. 41(3).	(j)	student grievar	nce procedu	res;	
S. 13D(3)(k) substituted by No. 80/1997 s. 41(3).	(k)	recording and 1	reporting re	quiremen	ts;
S. 13D(3)(I) substituted by No. 80/1997 s. 41(3).	(1)	previous exper issuing qualific	-	oviding co	ourses or
S. 13D(3)(m) substituted by No. 80/1997 s. 41(3).	(m)	the cost of serv	vices;		
S. 13D(3)(n) substituted by No. 80/1997 s. 41(3).	(n)	the ability of the with and the percompliance with Board about arthis section.	erson or booth	dy's record elines issu	d of led by the
S. 13D(3) (o)–(r) repealed by No. 80/1997 s. 41(3).	*	*	*	*	*

s. 13F

- (4) The Board may from time to time issue guidelines about the matters referred to in sub-section (3).
- (5) A registration remains in force for a period specified by the Board not exceeding 3 years unless sooner suspended or cancelled.
- (6) The Board may suspend or cancel a registration.
- (7) In determining whether to suspend or cancel a registration the Board may have regard to all or any of the matters mentioned in sub-section (3).
- (8) A person may apply to the Administrative Appeals Tribunal for a review of a decision of the Board not to register a person or body or to suspend or cancel a registration under this section.
- (9) The Board may charge a reasonable fee for an application under sub-section (1).

* * * * *

S. 13E inserted by No. 62/1994 s. 58, repealed by No. 80/1997 §. 43F inserted by No. 62/1994 s. 58.

13F. Register of providers

The Board must establish and maintain a register of providers of further education registered under section 13D specifying—

- (a) the name of the registered person or body; and
- (b) any limitations or restrictions on the registration.

* * * * *

Pt 2 Div. 3 (Heading and ss 14–18) repealed by No. 31/1994 s. 4(Sch. 2 item 2).

Division 4—Constitution and Administration of the Board

19. Membership of the Board

- (1) There are to be 13 members of the Board of whom—
 - (a) 12 are to be appointed by the Governor in Council on the recommendation of the Minister of whom—
 - (i) one member is to be appointed as Chairperson; and
 - (ii) three members are to be persons who have substantial experience as or are members of any Regional Council of Adult, Community and Further Education; and

* * * * *

- (vi) ²one member is to be a person with knowledge and experience of post-secondary education nominated by the Minister for the time being administering the **Tertiary Education Act 1993**;
- (vii) four members are to be persons who have substantial knowledge of or experience in the provision of adult, community and further education; and
- (viii) one member is to be a person who has substantial current experience in the employment of staff in the adult,

S. 19(1) amended by No. 80/1997 s. 43(a).

S. 19(1)(a) amended by No. 80/1997 s. 43(b).

S. 19(1)(a)(ii) amended by No. 80/1997 s. 43(c).

> S. 19(1)(a) (iii)–(v) repealed by No. 80/1997 s. 43(d).

S. 19(1)(a)(vi) substituted by No. 18/1993 s. 28(1)(d).

S. 19(1)(a)(vii) amended by No. 80/1997 s. 43(e).

- community and further education sector; and
- (ix) two members are to be persons with special skills, knowledge or experience relevant to the Board; and
- (b) one member is to be the Chairperson of the Council of Adult Education.

S. 19(1)(b) amended by No. 80/1997 s. 43(f).

- (2) In making a recommendation under sub-section (1)(a) the Minister must have regard to—
 - (a) maintaining a balance between the number of men and women on the Board; and
 - (b) ensuring that the composition of the Board reflects both metropolitan and country interests; and
 - (c) ensuring that the composition of the Board is a fair and balanced reflection of the diversity of the community; and
 - (d) ensuring that there is sufficient financial and management expertise on the Board; and
 - (e) ensuring that the composition of the Board represents the interests of users of adult, community and further education; and
 - (f) ensuring that the composition of the Board reflects the importance of the community based provision of adult, community and further education.

20. Terms and conditions of office of members

(1) A member appointed under section 19(1)(a) holds office for the term, not exceeding three years, that is specified in the instrument of his or her appointment, and is eligible for re-appointment.

- (2) Despite sub-section (1), where the Governor in Council is making the appointment of the first members to take office under section 19(1)(a), 7 of those members must be appointed for a period of 1½ years and the Minister is to decide and recommend which members are to be appointed for that period.
- (3) The office of a member appointed under section 19(1)(a) 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 three consecutive meetings of the Board without the leave of the Chairperson, or, in the case of the Chairperson, without the Minister's leave;

* * * * *

S. 20(3)(c) amended by No. 42/1995 s. 224(Sch. 2 item 3(a)).

S. 20(3)(d) repealed by No. 42/1995 s. 224(Sch. 2 (item 3(b)).

- (4) 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 the Board; and
 - (d) disclose to the Board any conflict of interest or duties except those arising directly out of the person's qualifications for membership of the Board.
- (5) A member may resign his or her office in writing delivered to the Governor in Council.

- (6) The Governor in Council may remove or suspend a member from office.
- (7) A member other than a person who holds a full-time government office or a full-time office in the public service or teaching service, or with a statutory authority and whose travelling and personal expenses are met through that office, is entitled to be paid—

S. 20(7) amended by No. 89/1993 s. 7(b).

- (a) any remuneration that is specified in the instrument of appointment or that is fixed from time to time by the Governor in Council; and
- (b) allowances for travelling and personal expenses at the rates and on the conditions applicable to officers of the public service.
- (8) A member is appointed subject to any other terms and conditions that are specified in the instrument and that are not inconsistent with this Act.

21. Acting members

- (1) The Minister may appoint a person to act in the place of a member, other than the Chairperson, if that member is—
 - (a) unable to perform his or her duties; or
 - (b) is absent from duty; or
 - (c) his or her office is vacant.
- (2) If—
 - (a) the Chairperson is—
 - (i) unable to perform his or her duties; or
 - (ii) is absent from duty; or
 - (b) the office of Chairperson is vacant—

the Deputy Chairperson or, in the absence of the Deputy Chairperson, the person appointed under

- sub-section (1) to act in his or her place is to act in the place of the Chairperson.
- (3) The Minister must appoint a person who is, in the Minister's opinion, suitable to act in the place of that member and the Minister may make that appointment for the period that the other member is absent or unable to act or until the vacancy is filled or for any other period specified in the instrument of appointment.
- (4) A person appointed to act in the place of a member or the Chairperson or during a vacancy in the office of a member or the Chairperson—
 - (a) has all the powers and may perform all the functions of the member or the Chairperson; and
 - (b) if the person does not hold a full-time government office or a full-time office in the public service, the TAFE teaching service, the teaching service or with a statutory authority, is entitled to be paid any remuneration and travelling and other allowances that the member or the Chairperson would have been entitled to under section 20.

22. Validity of acts or decisions of the Board

An act or decision of the Board is not invalid only because—

- (a) of a vacancy in the office of a member; or
- (b) of a defect or irregularity in or in connection with the appointment of a member; or
- (c) in the case of a presiding or acting member, the occasion for that person so presiding or acting had not risen or had ceased.

23. Meetings of the Board

- (1) The Board must have at least 6 meetings in any year.
- (2) The Chairperson must preside at any meeting of the Board at which he or she is present.
- (3) If the Chairperson is absent, the Deputy Chairperson must preside.
- (4) A majority of members in office at the time constitutes the quorum.
- (5) A question arising at a Board meeting is determined by majority of votes and, if they are equal, the person presiding has a casting vote.
- (6) The Board must meet at the times and places that are determined by the Chairperson or the Board.
- (7) The Board must keep a record of the decisions and full and accurate minutes of its meetings and must, not later than 14 days after a meeting, give a copy of the minutes of the meeting to the Minister.
- (8) Subject to this section, the Board may regulate its own proceedings.

24. Committees of the Board

- (1) The Board must establish an audit committee to audit the financial and other affairs of the Board.
- (2) The Board may establish one or more other committees and may refer matters to a committee for examination.
- (3) The Board must determine the membership, the terms and conditions of membership and procedures of a committee established under this section.

S. 25(1)

amended by

No. 89/1993

25. *Staff* ³

- (1) Subject to the **Public Sector Management Act 1992**, there is to be appointed a General Manager of the Board and any other officers and temporary employees that are necessary for the purposes of this Part.
- (2) The General Manager is responsible for implementing any policy or decision of the Board made in accordance with this or any other Act.

26. Use of services of external staff

For the purposes of this Act—

- (a) the Minister may direct that the services of any officer of the public service in the Ministry of Education and Training or any member of the teaching service is to be available and made use of by the General Manager of the Board; and
- (b) the General Manager of the Board may, with the approval of the Minister and the consent of the Minister administering any other Government department make use of the services of any officer of the public service in that other department.

Division 5—Delegations and Immunity provisions

27. Delegations by the Board

The Board may, by instrument under its common seal, delegate any power or function, other than a function specified in section 6(2), its duty to make the adult, community and further education plan under section 12 or this power of delegation to—

- (a) a member of the Board; or
- (b) the General Manager; or

s. 27A

(c)	an officer or employee of the public service appointed under section 25; or	
(d)	a Regional Council of Adult, Community and Further Education; or	
(da)	a person employed under section 43; or	S. 27(da) inserted by No. 89/1993 s. 6(2).
(e)	the Council of Adult Education; or	
(f)	a provider of adult, community and further education; or	
(g)	the State Training Board or the General Manager of that Board; or	S. 27(g) amended by No. 89/1993 s. 7(e)(i)(ii).
(h)	an officer or employee appointed or employed under section 19 of the Vocational Education and Training Act 1990 ; or	S. 27(h) amended by No. 18/1993 s. 28(1)(e).
*	* * * *	S. 27(i) repealed by No. 89/1993 s. 7(f).
(j)	a body established under section 4 of the Tertiary Education Act 1993 or under section 21 of the Vocational Education and Training Act 1990 ; or	S. 27(j) amended by No. 18/1993 s. 28(1)(f)(g).
(k)	the members of a further education recognition board established under section 13B or the members of a training recognition board established under section 75 of the Vocational Education and Training Act 1990.	S. 27(k) inserted by No. 18/1993 s. 28(1)(g), substituted by No. 80/1997 s. 44.
27A. Delegation	ns to approved training agents	S. 27A inserted by
section	out limiting the powers of the Board under on 27, the Board may, by instrument under its mon seal, delegate to any person, or the	No. 80/1997 s. 45.

- members of any body, appointed as an approved training agent under the **Vocational Education** and **Training Act 1990** any power or function of the Board under section 13A, 13D or 13F.
- (2) A person who is aggrieved by any decision of an approved training agent made under section 13A, 13D or 13F acting as a delegate of the Board under sub-section (1) may apply to the Board for a review of that decision within 14 days after the person was notified of that decision by the approved training agent or within any longer period that the Board allows.
- (3) The Board may exercise all the powers and discretions that it would have had in determining the matter under review and may in writing—
 - (a) affirm the decision under review; or
 - (b) vary the decision under review; or
 - (c) set aside the decision under review and—
 - (i) make a decision in substitution for the decision set aside; or
 - (ii) remit the matter for reconsideration by the approved training agent in accordance with any directions or recommendations of the Board.

28. Delegations by the Minister

- (1) The Minister may, by instrument in writing, delegate any power or function, other than the powers set out in sub-section (2), to—
 - (a) the Board or a member of the Board; or
 - (b) the General Manager; or
 - (c) an officer or employee of the public service appointed under section 25; or

(d) a Regional Council of Adult, Community

s. 28

	and Further Education; or	
(da)	a person employed under section 43; or	S. 28(1)(da) inserted by No. 89/1993 s. 6(3).
(e)	the Council of Adult Education; or	
(f)	a provider of adult, community or further education; or	
(g)	the State Training Board, or the General Manager of that Board; or	S. 28(1)(g) amended by No. 18/1993 s. 28(1)(h)(i)(ii)
(h)	an officer or employee appointed or employed under section 19 of the Vocational Education and Training Act 1990 ; or	S. 28(1)(h) amended by No. 18/1993 s. 28(1)(i).
*	* * * *	S. 28(1)(i) repealed by No. 89/1993 s. 7(f).
(i)	a body established under section 4 of the	C 20/1\/i\
37	Tertiary Education Act 1993 or under section 21 of the Vocational Education and Training Act 1990.	S. 28(1)(j) amended by No. 18/1993 s. 28(1)(j).
(2) For t	Tertiary Education Act 1993 or under section 21 of the Vocational Education and	amended by No. 18/1993
(2) For t	Tertiary Education Act 1993 or under section 21 of the Vocational Education and Training Act 1990. the purposes of sub-section (1), the powers	amended by No. 18/1993
(2) For t whic	Tertiary Education Act 1993 or under section 21 of the Vocational Education and Training Act 1990. The purposes of sub-section (1), the powers the cannot be delegated are—	amended by No. 18/1993
(2) For t whice (a) (b)	Tertiary Education Act 1993 or under section 21 of the Vocational Education and Training Act 1990. The purposes of sub-section (1), the powers the cannot be delegated are— the power of delegation in sub-section (1); or the power to issue directions or guidelines	amended by No. 18/1993
(2) For t whice (a) (b) (c)	Tertiary Education Act 1993 or under section 21 of the Vocational Education and Training Act 1990. The purposes of sub-section (1), the powers the cannot be delegated are— the power of delegation in sub-section (1); or the power to issue directions or guidelines under this Act; or the power to determine the Adult, Community and Further Education Plan	amended by No. 18/1993

- (e) the power to establish regions under section 33; or
- (f) the power to appoint Regional Councils under section 34.

29. Delegations by the General Manager

The General Manager may, by instrument in writing, delegate any of his or her powers or functions under this Act, other than this power of delegation, to—

- (a) any officer or employee of the public service appointed under section 25; or
- (b) any Regional Council of Adult, Community and Further Education; or
- (ba) a person employed under section 43; or
- (c) the Council of Adult Education; or
- (d) a provider of adult, community and further education; or
- (e) the State Training Board or the General Manager of that Board; or
- (f) an officer or employee appointed or employed under section 19 of the Vocational Education and Training Act 1990; or

(h) a body established under section 4 of the **Tertiary Education Act 1993** or under section 21 of the **Vocational Education and Training Act 1990**.

30. Delegation of a power which must be exercised on advice

The Board, the Minister or the General Manager may, delegate a power or function, even though the Board, Minister or General Manager may only exercise the power or perform the function after receiving the report, recommendation, opinion or advice or after consulting the person to whom the power or function is delegated.

31. Establishment of bodies to act as delegates of Board

- (1) The Governor in Council may from time to time by Order establish a board, committee or other similar body to exercise any of the powers and functions of the Board that are delegated to it under this section.
- (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 procedure of the body as the Governor in Council thinks fit.
- (3) The Board with the consent of the Minister may, by instrument in writing, delegate to any body established under sub-section (1) any of its powers and functions, except this power of delegation.

32. Immunity of Board members from suit

- (1) A member of the Board is not personally liable for any thing done or omitted to be done in good faith—
 - (a) in the exercise of a power or the discharge of a duty under this Act; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act.

(2) Any liability resulting from an act or omission that would, but for sub-section (1), attach to the person because of that act or omission attaches instead to the Board.

PART 3—REGIONS OF ADULT, COMMUNITY AND FURTHER EDUCATION

33. Regions

The Minister, after consulting with and considering the advice of the Board, is to establish regions for the administration of adult, community and further education in Victoria.

34. Regional Councils

The Minister must appoint a Regional Council of Adult, Community and Further Education for each region established under section 33.

35. Functions of Regional Councils

- (1) The functions of a Regional Council are—
 - (a) to develop a process which will enable users and providers of adult, community and further education to advise the Council and the Board on the needs of adult, community and further education in the region; and
 - (b) to provide advice and prepare reports for the Board; and
 - (c) to develop policies for adult, community and further education which are consistent with the functions and policies of the Board; and
 - (d) to prepare plans for all adult, community and further education in the region; and

S. 35(1)(d) substituted by No. 80/1997 s. 46(1).

(e) to advise the Board about the allocation of funds provided under section 9(c) of this Act and about the allocation of resources for providing adult, community and further education in the region when it is not

- provided by TAFE colleges or the Council of Adult Education; and
- (f) to advise the Board about the effectiveness of activities funded under section 9(c) of this Act and about the effectiveness of adult, community and further education activities within the region that are not provided by TAFE colleges or the Council of Adult Education; and
- (g) to support and promote the provision of adult, community and further education in the region; and
- (h) to support and promote networks between community based providers of adult, community and further education; and
- (i) to support and promote the diversity and flexibility of the community based provision of adult, community and further education; and
- (j) to advise the Board on strategies and systems which will support and enhance the communication between the Government and the community about the provision and development of adult, community and further education in the region; and
- (k) to participate in recommending to the Board priorities and policies to apply throughout the State; and
- (l) to carry out any other function that is conferred on it by this or any other Act.
- (1A) The Minister may from time to time, by notice published in the Government Gazette, confer additional functions relating to the objects of this Act on a Regional Council.

- (2) In carrying out its functions a Regional Council must—
 - (a) consult as a matter of general practice with any person or organisation who uses or provides adult, community and further education and any other education and training organisation in its region including the Council of any TAFE college which provides or offers adult, community and further education in the region and the Council of Adult Education if it provides or offers adult, community and further education in the region; and
 - (b) ensure that its actions are consistent with the arrangements for the provision of vocational education and training.

36. Powers of Regional Councils

A Regional Council has power to do everything that is necessary or convenient for it to do for or in connection with the performance of its functions including any function delegated to it.

37. Accountability

A Regional Council must carry out its functions subject to—

- (a) any performance agreement it has entered into with the Board; and
- (b) the policies of the Board and the adult, community and further education plan; and

S. 37(b) amended by No. 80/1997 s. 47.

(c) the direction and control of the Minister; and

S. 37(c) amended by No. 80/1997 s. 47.

(d) any guideline or direction issued by the Minister on any matter relating to adult,

community and further education or the operation of Regional Councils; and

(e) any other requirement of this Act.

38. Membership of Regional Councils

- (1) A Regional Council consists of 12 members appointed by the Minister of whom one shall be appointed Chairperson.
- (2) The Minister must consult with any community, or other group or organisation in the region which is, in the Minister's opinion, appropriate concerning the membership of a Regional Council for that region.
- (3) In appointing members of a Regional Council, the Minister—
 - (a) must consider any advice given in a consultation under sub-section (2) and ensure that the Council—
 - (i) is representative of the interests and views of users and providers of adult, community and further education in the whole of the region including the interests of TAFE colleges; and
 - (ii) is a fair and balanced reflection of the diversity of the community in that region; and
 - (iii) is representative of the importance of the community based provision of adult, community and further education; and
 - (b) must ensure that at least one half of the membership are people with substantial knowledge of or experience in the provision of adult, community and further education.

S. 38(1) amende No. 80/1 s. 48(1). amended by No. 80/1997

amended by 5No. 80/1997 s. 48(2).

- (4) The members of a Council may co-opt, for a period not exceeding one year, not more than two members.
- (5) A co-opted member of the Council has the same rights, powers, duties and entitlements as any other member of the Council for the period during which he or she is co-opted.

39. Terms and conditions of office of members

- (1) A member holds office for the term, not exceeding 3 years, that is specified in the instrument of appointment and is eligible for re-appointment.
- (2) Despite sub-section (1), where the Minister is making the appointments of the first members to take office in a Council under section 38(1), 6 of those members must be appointed for a period of 1½ years, and the Minister is to decide which members are to be appointed for that period.
- (3) 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 three consecutive meetings of the Council without the Chairperson's leave or in the case of the Chairperson, without the Minister's leave.
- (4) 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 Council; and

- (d) disclose to the Council any conflict of interest or duties.
- (5) A member may resign his or her office in writing delivered to the Minister.
- (6) The Minister may remove or suspend a member from office.
- (7) A member, other than a person who holds a government office or an office in the public service or teaching service or with a statutory authority, and whose travelling and personal expenses are met through that office, is entitled to be paid allowances for travelling and personal expenses at the rates and on the conditions applicable to officers of the public service.
- (8) A member is appointed subject to any other terms and conditions that are specified in the instrument of appointment and that are not inconsistent with this Act.

40. Meetings of Councils

- (1) A Regional Council must have at least 6 meetings in any year.
- (2) A Regional Council must have a Chairperson and a Deputy Chairperson elected by members of the Council.
- (3) The Chairperson must preside at any meeting at which he or she is present.
- (4) If the Chairperson is absent the Deputy Chairperson must preside.
- (5) Subject to this Act and to any guidelines issued by the Minister, the Council may regulate its own proceedings.

41. Incorporation of Regional Councils

- (1) A Regional Council—
 - (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 or 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.
- (2) The common seal of a Regional Council must be kept as directed by the Council and must only be used as authorised by the Council.
- (3) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document is properly sealed.

42. Immunity of Council members from suit

- (1) A member of a Regional Council is not personally liable for anything necessarily or reasonably done or omitted to be done in good faith—
 - (a) in the exercise of the power or the discharge of a duty under this Act; or
 - (b) in the reasonable belief that the Act or omission was in the exercise of a power or the discharge of a duty under this Act.

(2) Any liability resulting from an act or omission that would, but for sub-section (1) attach to the person because of that act or omission attaches instead to the Regional Council.

43. Employment of staff⁴

- (1) A Regional Council may employ a Director of the Regional Council (however described) and any other staff that are necessary to enable the Regional Council to perform its functions and exercise its powers.
- (2) Persons employed under this section shall be employed on terms and conditions determined by the Regional Council.
- (3) A Regional Council, in employing persons under this section, does not represent the Crown.

* * * * *

PART 5—TRANSITIONAL PROVISIONS

50. Transitional provision for the Council of Adult Education

- (1) On the commencement of this section—
 - (a) the new Board is the successor in law of the former Board; and
 - (b) the former Board is abolished and its members go out of office; and
 - (c) all rights, assets, liabilities and obligations of the former Board immediately before its abolition become rights, assets, liabilities and obligations of the new Board; and
 - (d) the new Board is substituted for the former Board as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to the former Board; and
 - (e) the new Board may continue and complete any other continuing matter or thing commenced by or against or in relation to the former Board; and
 - (f) any reference to the former Board 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 relates to any period on or after commencement of this section, and if not inconsistent with the context or subjectmatter, be taken to be a reference to the new Board.

(2) In this section—

"former Board" means the Board of the Council of Adult Education established under section 6 of the Council of Adult Education Act 1981 as in force immediately before the coming into operation of section 46 of this Act;

"new Board" means the Board of the Council of Adult Education established under section 6 of the Council of Adult Education Act 1981 as in force on and after the coming into operation of section 46 of this Act.

51. Transitional provision for the State Training Board

Despite the coming into operation of section 43, the State Training Board as it is constituted on and from the coming into operation of that section is to be taken to be the same body as the State Training Board as it was constituted immediately before the coming into operation of that section.

52. Saving of Board

A person who was a member of the Board immediately before the commencement of section 43 of the Vocational Education and Training (Training Framework) Act 1997 continues to be a member until the expiry of his or her current term of office.

Adult, Community and Further Education Act 1991 Act No. 91/1991

Notes

NOTES

1. General Information

Minister's second reading speech— Legislative Assembly: 29 August 1991

Legislative Council: 23 October 1991

The long title for the Bill for this Act was "A Bill to make provision with respect to Adult, Community and Further Education, to establish an Adult, Community and Further Education Board, to amend the Council of Adult Education Act 1981, the Post-Secondary Education Act 1978, and the Vocational Education and Training Act 1990 and for other purposes.".

The Adult, Community and Further Education Act 1991 was assented to on 10 December 1991 and came into operation on 19 March 1992: Special Gazette (No. 4) 18 March 1992 p. 1.

2. Table of Amendments

This Version incorporates amendments made to the **Adult, Community and Further Education Act 1991** by Acts and subordinate instruments.

Tertiary Education Act 1993, No. 18/1993

Assent Date: 18.5.93

Commencement Date: Ss 1, 2 on 18.5.93: s. 2(1); s. 24 on 7.6.93; rest of Act

on 1.7.93: Government Gazette 3.6.93 p. 1414

Current State: All of Act in operation

Adult, Community and Further Education (Employment) Act 1993, No. 89/1993

Assent Date: 16.11.93 Commencement Date: 1.1.94: s. 2

Current State: All of Act in operation

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94

Commencement Date: S. 3(Sch. 1 item 2) on 7.7.94: Government Gazette

7.7.94 p. 1878–see Interpretation of Legislation Act 1984; s. 4(Sch. 2 item 2) on 1.1.95: Government

Gazette 28.7.94 p. 2055

Current State: This information relates only to the provision/s

amending the $\boldsymbol{Adult}, \boldsymbol{Community}$ and $\boldsymbol{Further}$

Education Act 1991

Vocational Education and Training (Amendment) Act 1994, No. 62/1994

Assent Date: 15.6.94

Commencement Date: Ss 1–3 on 15.6.94: s. 2(1); s. 77 on 30.6.94; rest of Act

(*except* ss 13, 14, 51–68) on 1.7.94; ss 51–58 on 1.8.94; ss 59–68 on 1.12.94: Government Gazette 23.6.94 p. 1671; ss 13, 14 on 15.9.94: Government

Gazette 15.9.94 p. 2472

Current State: All of Act in operation

Equal Opportunity Act 1995, No. 42/1995

Assent Date: 14.6.95

Commencement Date: S. 224 on 5.10.95: Government Gazette 28.9.95

p. 2731; Sch. 2 item 3 on 1.1.96: Government Gazette

21.12.95 p. 3571

Current State: This information relates only to the provision/s

amending the Adult, Community and Further

Education Act 1991

Adult, Community and Further Education Act 1991 Act No. 91/1991

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Commonwealth Powers (Industrial Relations) Act 1996, No. 59/1996

Assent Date: 12.12.96

Commencement Date: S. 10(Sch. 2 item 1) on 1.1.97: Special Gazette

(No. 146) 23.12.96 p. 15

Current State: This information relates only to the provision/s

amending the Adult, Community and Further

Education Act 1991

Vocational Education and Training (Training Framework) Act 1997, No. 80/1997

Assent Date: 25.11.97

Commencement Date:

Pt 3 (ss 37-49) on 1.1.98: Government Gazette

18.12.97 p. 3614

Current State: This information relates only to the provision/s

amending the Adult, Community and Further

Education Act 1991

3. Explanatory Details

- ¹ Pt 2 Div. 2B (ss 13D–13F): See section 81 of the **Vocational Education and Training Act 1990**, No. 45/1990 for registration of other providers of further education by the State Training Board.
- ² S. 19(1)(a)(vi): Section 28(2) of the **Tertiary Education Act 1993**, No. 18/1993 reads as follows:

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

- (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.
- ³ S. 25: Section 5 of the **Adult, Community and Further Education** (Employment) Act 1993, No. 89/1993 reads as follows:

5. Existing officers to remain public servants seconded to Councils

- (1) Sub-section (2) applies to a person who was, immediately before 1 January 1994, an officer under the **Public Sector Management Act 1992** appointed under section 25(1) of the Principal Act for the purposes of Part 3 of that Act.
- (2) On 1 January 1994 a person to whom this subsection applies—
 - (a) continues, subject to the **Public Sector Management Act 1992**, to hold the position the officer held immediately before that date on the same terms and conditions and with the same classification and accrued or accruing entitlements as applied to the person immediately before that date;

Adult, Community and Further Education Act 1991 Act No. 91/1991

- (b) is deemed to be seconded under an arrangement under section 38(1) of the **Public Sector Management Act 1992** for the services of that person to be used by or on behalf of the Regional Council for the Region in which he or she worked immediately before that date. The arrangement shall be upon such terms and conditions as are agreed from time to time between the Secretary of the Department of Education and the Regional Council.
- (3) A person to whom sub-section (2) applies is for the purposes of sections 27(c), 28(1)(c) and 29(a) of the Principal Act deemed to be an officer of the public service appointed under section 25 of the Principal Act.

⁴ S. 43: See note 3.