No. 14 of 1979

An Act to promote, develop and co-ordinate post-secondary education in South Australia; to establish the Tertiary Education Authority of South Australia; to repeal the South Australian Board of Advanced Education Act, 1972; to amend the Colleges of Advanced Education Act, 1972-1978, the Roseworthy Agricultural College Act, 1973, and the South Australian Institute of Technology Act, 1972-1979; and for other purposes.

[Assented to 8th March, 1979]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I
PRELIMINARY

1. This Act may be cited as the "Tertiary Education Authority Act, 1979".

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

    (2) The Governor may, in a proclamation made for the purposes of subsection (1) of this section, suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. This Act is arranged as follows:—

   PART I—PRELIMINARY
   PART II—ADMINISTRATION
   PART III—POWERS AND FUNCTIONS OF THE AUTHORITY
   PART IV—MISCELLANEOUS
   SCHEDULES

4. (1) The Act mentioned in the first schedule to this Act is repealed.
(2) The Acts mentioned in the second schedule to this Act are amended as shown in that schedule, and, as so amended, may be cited as shown in that schedule.

5. (1) In this Act, unless the contrary intention appears—

"academic award" means a degree, diploma, certificate or other award:

"accreditation", in relation to a course means final approval of the course after the course has been subjected to the accreditation process:

"the accreditation process", in relation to a course, means the evaluation of the academic standard of the course and its appropriateness in view of the academic award to which it is intended to lead:

"the Authority" means the Tertiary Education Authority of South Australia:

"course" means a course involving at least one year's, or the equivalent of one year's, full-time study and consisting of a series of subjects or units leading, or intended to lead, to an academic award:

"non-formal post-secondary education" means post-secondary education that is not intended to lead to an academic award and includes recurrent education:

"post-secondary education" means education of persons (not being persons undertaking a course of primary or secondary education) who are beyond the age of compulsory school attendance:

"post-secondary institution" means—

(a) a university;

(b) a college of advanced education;

(c) the Department of Further Education;

or

(d) any institution declared by proclamation to be a post-secondary institution:

"prescribed post-secondary institution" means—

(a) a post-secondary institution the name of which appears in the third schedule to this Act;

or

(b) a post-secondary institution (not being a university) declared by proclamation to be a prescribed post-secondary institution:

"provisional approval" in relation to a proposed course means a provisional approval given after the Authority has satisfied itself—

(a) that the course should be provided in the interests of the community;

and

(b) that the post-secondary institution proposing to provide the course is the appropriate post-secondary institution to provide the course:

"recurrent education" means education designed to provide an opportunity for members of the public to expand their knowledge, intellectual faculties or manual skills at any time of life:
"the repealed Act" means the South Australian Board of Advanced Education Act, 1972, repealed by this Act:

"the Tertiary Education Commission" means the Commission constituted under the Tertiary Education Commission Act, 1977, of the Commonwealth or any other authority constituted under the law of the Commonwealth to take over the functions of that Commission.

(2) The Governor may, by proclamation—

(a) declare any institution to be a post-secondary institution for the purposes of this Act;

or

(b) declare any post-secondary institution (not being a university) to be a prescribed post-secondary institution,

and may, by subsequent proclamation, vary or revoke any such proclamation.

(3) A proclamation shall not be made under paragraph (a) of subsection (2) of this section without the concurrence of the institution to which the proclamation relates.

PART II
ADMINISTRATION

6. (1) There shall be an authority entitled the "Tertiary Education Authority of South Australia".

(2) The Authority—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of suing and being sued;

(c) shall be capable of acquiring, holding and disposing of real or personal property;

(d) shall be capable of acquiring or incurring any other rights or liabilities;

and

(e) shall hold its property for and on behalf of the Crown.

(3) Where an apparently genuine document purports to bear the common seal of the Authority, it shall be presumed, in the absence of evidence to the contrary, that the common seal of the Authority was duly affixed to that document.

7. (1) The Authority shall consist of five members, appointed by the Governor, of whom—

(a) either one or two shall be full-time members;

and

(b) the remainder shall be part-time members.

(2) A full-time member of the Authority shall be appointed by the Governor to be Chairman of the Authority and, if there are two full-time members, the other shall be appointed by the Governor to be Deputy Chairman of the Authority, but if not, a part-time member shall be appointed by the Governor to be Deputy Chairman of the Authority.
8. (1) A full-time member of the Authority shall be appointed for a term of office, not exceeding five years, specified in the instrument of his appointment, and shall, subject to this Act, be eligible for re-appointment at the expiration of a term of office.

(2) A person who has attained the age of sixty-five years shall not be eligible for appointment or re-appointment as a full-time member of the Authority.

(3) A full-time member of the Authority shall not, without the approval of the Minister, engage in remunerated employment outside the duties of his office.

(4) A full-time member of the Authority shall be entitled to such salary, allowances and expenses as may be determined by the Governor.

(5) The other conditions of office relating to a full-time member of the Authority shall be determined by the Minister.

9. (1) A part-time member of the Authority shall be appointed for a term of office, not exceeding three years, specified in the instrument of his appointment, and shall, subject to this Act, be eligible for re-appointment at the expiration of a term of office.

(2) A person who has attained the age of seventy years shall not be eligible for appointment or re-appointment as a part-time member of the Authority.

(3) A part-time member of the Authority shall be entitled to such allowances and expenses as may be determined by the Governor.

10. (1) The Governor may remove a member of the Authority from office for—

(a) mental or physical incapacity;

(b) misconduct;

or

(c) neglect of duty.

(2) The office of a member of the Authority shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (1) of this section.
11. (1) Three members of the Authority (of whom one must be the Chairman or the Deputy Chairman) shall constitute a quorum of the Authority.

(2) The Chairman, or in the absence of the Chairman, the Deputy Chairman shall preside at a meeting of the Authority.

(3) A decision carried by a majority of the votes cast by the members present at a meeting of the Authority shall be a decision of the Authority.

(4) Each member present at a meeting of the Authority shall be entitled to one vote on any matter arising for decision at that meeting and, in the event of an equality of votes, the member presiding at the meeting shall have a second or casting vote.

(5) The Authority shall cause accurate minutes to be kept of its proceedings.

(6) Subject to this Act, the proceedings of the Authority shall be conducted in such manner as the Authority may determine.

12. (1) The Authority may, in any appropriate case, by instrument in writing, delegate any of its powers or functions—

(a) to any member of the Authority;

(b) to a committee established by the Authority;

or

(c) in so far as the power or function relates to a post-secondary institution—to that post-secondary institution.

(2) A delegation under this section shall be revocable at will and shall not prevent the Authority from acting in any matter itself.

13. (1) An act or proceeding of the Authority shall not be invalid by reason only of a vacancy or vacancies in its membership, and notwithstanding the subsequent discovery of a defect in the appointment of a member or purported member, any such act or proceeding shall be as valid and effectual as if that member or purported member had been duly appointed.

(2) No liability shall attach to a member for any act or omission by him, or by the Authority, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties, under this Act.

PART III
POWERS AND FUNCTIONS OF THE AUTHORITY

14. The functions of the Authority are—

(a) to make investigations and reports, either of its own motion or at the request of the Minister, in relation to the planning, organization, co-ordination or administration of post-secondary education in this State;
(b) to give advice to—

(i) post-secondary institutions in this State;

and

(ii) where appropriate, the Tertiary Education Commission, with a view to rationalizing the use of resources available for the purposes of post-secondary education in this State;

(c) to make recommendations to any post-secondary institution and, where appropriate, to the Tertiary Education Commission relating to the courses that should or should not be provided at that institution;

(d) to grant provisional approval and accreditation in respect of courses, and to approve academic awards in relation to accredited courses;

(e) to make recommendations to the Minister and, where appropriate, to the Tertiary Education Commission relating to the establishment, amalgamation or closure of post-secondary institutions or parts thereof;

(f) to give advice to the Minister and the Tertiary Education Commission in relation to—

(i) the extent of financial support (whether in respect of capital or recurrent expenditure) needed by the post-secondary institutions, or any of those institutions, in this State;

(ii) the apportionment of moneys between the prescribed post-secondary institutions and the conditions on which moneys should be made available to the prescribed post-secondary institutions;

and

(iii) any application by a post-secondary institution for reallocation of moneys provided for a particular purpose;

(g) to encourage co-operation between post-secondary institutions, and between post-secondary institutions and other organizations, in relation to the provision of courses, the use of staff, facilities and equipment, and any other relevant matter;

(h) to make recommendations to post-secondary institutions and the Minister relating to the provision of non-formal post-secondary education in this State;

(i) to undertake or commission research into matters relevant to the performance of its functions under this Act;

and

(j) to carry out any other functions and duties assigned to the Authority by or under this Act.

15. The Authority—

(a) shall, in relation to the making of any recommendation, or the performance of any other function of the Authority under this Act, consult with any post-secondary institutions that are affected and shall inform those institutions of any action that the Authority intends to take in the matter;

and
(b) may consult with such other authorities and bodies as it thinks necessary or expedient to assist it in carrying out its functions under this Act.

16. A post-secondary institution shall—

(a) inform the Authority of any representation that it proposes to make to the Tertiary Education Commission relating to—

(i) the financing of the post-secondary institution;

(ii) the introduction of new courses by the post-secondary institution, the continuance or discontinuance of existing courses, or any significant change in the nature, duration or content of any existing course;

or

(iii) any other significant matter relating to the administration of the post-secondary institution;

and

(b) furnish the Authority with such other information as the Authority may reasonably require for the purpose of carrying out its functions under this Act.

17. (1) There shall be a standing committee of the Authority entitled the "Accreditation Standing Committee".

(2) The standing committee shall consist of the following members—

(a) a Chairman (who shall be the Chairman or the Deputy Chairman of the Authority);

and

(b) eight other persons appointed by the Minister, on the nomination of the Authority, of whom—

(i) at least two must be employees of Colleges of Advanced Education;

and

(ii) at least two must be officers of the Department of Further Education.

(3) Each member of the standing committee shall be appointed by the Minister for a term (not exceeding three years), and subject to conditions, specified in the instrument of his appointment.

(4) The Minister may appoint a suitable person to be an acting member of the standing committee and such a person may, in the absence of a member of the standing committee, act as a member of the standing committee.

(5) The standing committee may establish such sub-committees as it thinks fit.

18. (1) The functions of the standing committee are—

(a) to make an evaluation of the academic standard of courses with a view to accreditation of those courses;

and

(b) to make recommendations to the Authority in relation to the accreditation of those courses.
PART III

19. (1) A prescribed post-secondary institution shall not provide any course unless the course has been provisionally approved by the Authority.

(2) A prescribed post-secondary institution shall not confer an academic award (not being an honorary academic award) on any person unless—

(a) the person upon whom the academic award is to be conferred has completed an accredited course;

and

(b) the award has been approved by the Authority as being appropriate to that course.

(3) For the purposes of this section—

(a) any course or academic award that was approved or accredited under the repealed Act shall be deemed to have been provisionally approved or accredited by the Authority upon the commencement of this Act;

and

(b) any course or academic award that was approved before the commencement of this Act by the South Australian Technician Certificate Board or the Director-General of Further Education shall be deemed to have been provisionally approved and accredited or approved (as the case may require) by the Authority upon the commencement of this Act, and that presumptive provisional approval, approval or accreditation shall be effective for the purposes of this Act.

(4) This section shall not apply to—

(a) the instruction or training provided for apprentices in accordance with the provisions of the Apprentices Act, 1950-1978, or related instruction or training prior or subsequent to apprenticeship;

or

(b) any award conferred on a person upon completing, or otherwise in respect of, any such instruction or training.

20. The accreditation of a course shall be effective for a period determined by the Authority.
PART IV

MISCELLANEOUS

21. (1) The Authority may appoint such committees as it thinks fit to investigate, and advise it upon, any aspect of post-secondary education in this State.

(2) A committee appointed under this section shall consist of such members as the Authority thinks fit.

(3) The terms and conditions on which a member of a committee appointed under this section holds office shall be as determined by the Authority.

(4) A member of a committee appointed under this section shall be entitled to receive such allowances and expenses as may be determined by the Authority and approved by the Minister.

22. (1) The Authority may, with the approval of the Minister, appoint such employees as may be necessary for the due administration of this Act.

(2) The terms and conditions upon which any such person is employed shall be determined by the Authority with the approval of the Minister.

(3) An employee of the Authority shall not, as such, be subject to the Public Service Act, 1967-1978.

(4) The full-time members, and any employee of the Authority, may subject to the Superannuation Act, 1974-1978, and any arrangements made between the South Australian Superannuation Board and the Authority, become contributors to the South Australian Superannuation Fund.

(5) The Governor may, at the request of the Authority, and subject to the provisions of the Public Service Act, 1967-1978, appoint persons to offices or positions related to the administration of this Act.

(6) Any person appointed under subsection (5) of this section shall hold office subject to the provisions of the Public Service Act, 1967-1978.

23. The Authority may, with the approval of the Minister, make use of the services of—

(a) any officer of the Public Service of the State;

(b) any officer of the teaching service constituted under the Education Act, 1972-1979;

or

(c) any member of the teaching service constituted under the Further Education Act, 1975-1979.

24. (1) The Authority shall cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may at any time, and shall at least one in each calendar year, audit the accounts of the Authority.

(3) For the purposes of the audit, the Auditor-General shall have in relation to the accounts, officers and employees of the Authority the same powers as are vested in him by the Audit Act, 1921-1975, in relation to public accounts and accounting officers.
25. (1) The Authority shall as soon as practicable, and not later than the thirtieth day of June in each year, submit to the Minister a report upon the administration of this Act during the calendar year ending on the preceding thirty-first day of December.

(2) The report shall include the audited accounts of the Authority.

(3) The Minister shall, as soon as practicable after his receipt of a report under subsection (1) of this section, cause copies of the report to be laid before each House of Parliament.

26. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

27. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section those regulations may—

(a) regulate the convening, and the procedure, of meetings of the Authority or of committees under this Act;

and

(b) prescribe and provide for the payment of fees for any services provided by the Authority under this Act.
THE FIRST SCHEDULE

The following Act is repealed:
the South Australian Board of Advanced Education Act, 1972

THE SECOND SCHEDULE

Amendment of certain Acts:

A. The Colleges of Advanced Education Act, 1972-1978, is amended—
(a) by striking out from paragraph (a) of subsection (1) of section 7 the passage "recognized and approved by the South Australian Board of Advanced Education upon those who have completed courses of advanced education accredited by the Board";
(b) by striking out paragraph (a) of subsection (1) of section 15 and inserting in lieu thereof the following paragraph:—
(a) the Tertiary Education Authority of South Australia;;
(c) by striking out subsections (5) and (6) of section 23;
(d) by striking out subsection (2) of section 26; and
(e) by inserting after section 29 the following section:—

30. The powers conferred on a College by this Act are subject to the provisions of the Tertiary Education Authority Act, 1979.

and as so amended may be cited as the "Colleges of Advanced Education Act, 1972-1979".

B. The Roseworthy Agricultural College Act, 1973, is amended—
(a) by striking out from paragraph (a) of subsection (1) of section 7 the passage "recognized and approved by the South Australian Board of Advanced Education upon those who have completed courses of advanced education accredited by the Board";
(b) by striking out paragraph (a) of subsection (1) of section 15 and inserting in lieu thereof the following paragraph:—
(a) the Tertiary Education Authority of South Australia;;
(c) by striking out from subsection (2) of section 21 the passage "the South Australian Board of Advanced Education" and inserting in lieu thereof the passage "the Tertiary Education Authority of South Australia";
(d) by striking out from subsection (2) of section 26 the passage "the South Australian Board of Advanced Education" and inserting in lieu thereof the passage "the Tertiary Education Authority of South Australia";
(e) by striking out subsections (5) and (6) of section 23;
(f) by striking out from subsection (2) of section 26 the passage "the South Australian Board of Advanced Education" and inserting in lieu thereof the passage "the Tertiary Education Authority of South Australia";
(g) by striking out subsection (3) of section 26; and
(h) by inserting after section 29 the following section:—

30. The powers conferred on the College by this Act are subject to the provisions of the Tertiary Education Authority Act, 1979.

and as so amended may be cited as the "Roseworthy Agricultural College Act, 1973-1979".

C. The South Australian Institute of Technology Act, 1972-1979, is amended—
(a) by striking out from paragraph (a) of subsection (1) of section 13 the passage "recognized and approved by the South Australian Board of Advanced Education upon those who have completed courses of advanced education accredited by the Board";

and

(b) by inserting after section 22 the following section:—

23. The powers conferred on the Institute by this Act are subject to the provisions of the Tertiary Education Authority Act, 1979.

and as so amended may be cited as the "South Australian Institute of Technology Act, 1972-1979".
THE THIRD SCHEDULE

The following are prescribed post-secondary institutions:

Adelaide College of the Arts and Education
Hartley College of Advanced Education
Roseworthy Agricultural College
Salisbury College of Advanced Education
South Australian Institute of Technology
Sturt College of Advanced Education
Department of Further Education

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

K. D. SEAMAN, Governor