

HIGHER EDUCATION ACT.

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 29, 1969.

An Act to provide for the constitution, and to define the powers, authorities, duties and functions, of the New South Wales Advanced Education Board, the New South Wales Universities Board, the New South Wales Higher Education Authority and Colleges of Advanced Education; and for purposes connected therewith. [Assented to, 9th April, 1969.]

BE

Higher Education.

BE it enacted by the Queen's Most Excellent Majesty, by No. 29, 1969
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Higher Education Short title
and com-
mencement.
Act, 1969".

(2) The provisions of—

- (a) this Part shall commence upon the day upon which the assent of Her Majesty to this Act is signified;
- (b) Parts II and III of this Act shall commence upon such day as may be appointed by the Governor and notified by proclamation published in the Gazette;
- (c) Part IV of this Act shall commence on such day, not being earlier than the day appointed under paragraph (b) of this subsection, as may be appointed by the Governor and notified by proclamation published in the Gazette;
- (d) Part V of this Act shall commence upon such day, being after the day or the later of the days appointed under paragraph (b) or (c) of this subsection, as may be appointed by the Governor and notified by proclamation published in the Gazette;
- (e) Part VI of this Act shall commence upon such day, being after the day appointed under paragraph (b) of this subsection, as may be appointed by the Governor and notified by proclamation published in the Gazette; and

(f)

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(f) Part VII of this Act—

- (i) so far as they relate to the Advanced Education Board and the members thereof, shall commence on the day on which Part III of this Act commences;
- (ii) so far as they relate to the Universities Board and the members thereof, shall commence on the day on which Part IV of this Act commences;
- (iii) so far as they relate to the Higher Education Authority and the members thereof, shall commence upon the day on which Part V of this Act commences;
- (iv) so far as they relate to colleges of advanced education and the members thereof, shall commence on the day on which Part VI of this Act commences; and
- (v) shall commence for all purposes on the later or the last of the days appointed under paragraph (b), (c), (d) or (e) of this subsection.

(3) Nothing in this section affects the operation of section thirty-seven of the Interpretation Act, 1897.

Division
into Parts.**2.** This Act is divided into Parts as follows :—PART I.—PRELIMINARY—*ss.* 1–3.PART II.—MINISTER'S RESPONSIBILITIES—*s.* 4.PART III.—ADVANCED EDUCATION BOARD—*ss.* 5–8.PART IV.—UNIVERSITIES BOARD—*ss.* 9–12.PART V.—HIGHER EDUCATION AUTHORITY—*ss.* 13–15.PART VI.—COLLEGES OF ADVANCED EDUCATION—*ss.* 16–28.PART VII.—GENERAL—*ss.* 29–33.**3.**

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3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

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Definitions.

“Advanced Education Board” means the New South Wales Advanced Education Board constituted under this Act;

“advanced education course” means a course of study approved by order of the Minister as a course of advanced education;

“college of advanced education” means an institution or body declared by the Minister under this Act to be a college of advanced education;

“Higher Education Authority” means the New South Wales Higher Education Authority constituted under this Act;

“regulations” means regulations made under this Act;

“Universities Board” means the New South Wales Universities Board constituted under this Act.

PART II.

MINISTER'S RESPONSIBILITIES.

4. (1) Subject to this Act, the Minister shall be responsible for the promotion, encouragement, development, improvement and maintenance of post-secondary courses of study and institutions providing those courses, having regard to the needs of the State and to the resources available to the State for education.

Minister
to be
responsible
for post-
secondary
education.

(2) In the discharge of his responsibilities under this section, the Minister shall have regard to any report or recommendation with respect thereto made by the Advanced Education Board, the Universities Board or the Higher Education Authority.

(3) Nothing in this section derogates from the duties and responsibilities of the Minister administering the Technical Education Act, 1949, as subsequently amended.

PART

ADVANCED EDUCATION BOARD.

New South
Wales
Advanced
Education
Board.

5. (1) There shall be constituted a board to be called the New South Wales Advanced Education Board.

(2) The Advanced Education Board shall consist of such number, being not less than seven nor more than nine, of persons as may be appointed by the Governor.

(3) Of the members of the Advanced Education Board—

(a) one shall be—

(i) where Part IV of this Act has, on the date on which the first or any subsequent nomination of persons to be members of the Advanced Education Board is made by the Minister, commenced, a person nominated by the Minister who is a member of the Universities Board, other than the person appointed to be a member of the Universities Board under subsection three of section nine of this Act; or

(ii) where Part IV of this Act has not, on that date, commenced, a person nominated by the Minister who in the opinion of the Minister would, if the New South Wales Universities Board to be constituted under that Part had been constituted, have been suitable for nomination as a member of that Board; and

(b) the remainder shall be appointed on the nomination of the Minister made after consultation with such persons and bodies as the Minister thinks fit.

(4) Where a person appointed to be a member of the Advanced Education Board—

(a) pursuant to subparagraph (i) of paragraph (a) of subsection three of this section ceases to be a member of the Universities Board; or

(b)

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- (b) pursuant to subparagraph (ii) of that paragraph is ^{No. 29 1969} not, upon the commencement of Part IV of this Act, or ceases thereafter to be, a member of the Universities Board,

he thereupon ceases to hold office as a member of the Advanced Education Board and there is a casual vacancy in his office.

(5) The chairman of the Advanced Education Board and, if any other member of that Board is so designated by the instrument of his appointment, that member shall be full-time members of that Board and if the chairman or any such other member, except with the approval in writing of the Minister, engages during his term of office in any paid employment outside the duties of his office as a member of that Board he thereupon ceases to hold office as a member of that Board and there is a casual vacancy in his office.

(6) The appointment—

- (a) of a full-time member of the Advanced Education Board shall be for a term of seven years; and
 (b) of any other member of that Board shall be for a term of five years,

and any such member shall, if otherwise qualified, be eligible for reappointment.

(7) A person shall not be appointed—

- (a) as a full-time member of the Advanced Education Board if he is of or above the age of sixty-five years;
 or
 (b) as a member, other than a full-time member, of that Board if he is of or above the age of seventy years.

(8)

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(8) A member of the Advanced Education Board ceases to hold office as such a member and there is a casual vacancy in his office—

- (a) in the case of a full-time member, upon his attaining the age of sixty-five years; and
- (b) in the case of a member other than a full-time member, upon his attaining the age of seventy years.

Functions
and powers
of the
Advanced
Education
Board.

6. (1) The functions and powers of the Advanced Education Board shall be, for the purpose of the promotion, encouragement, development, improvement and maintenance of advanced education courses and post-secondary courses of study that in the opinion of the Board may be suitable to be approved as advanced education courses, and institutions providing or proposing to provide advanced education courses or any such post-secondary courses—

- (a) to make reports and recommendations to the Minister, either of its own motion or at the request of the Minister, with respect to—
 - (i) the establishment of colleges of advanced education;
 - (ii) the approval of courses as advanced education courses;
 - (iii) the fields of studies in which a college of advanced education may offer courses or programmes of studies;
 - (iv) new developments affecting post-secondary education, other than university education;
 - (v) the nomenclature of the academic award to be conferred in respect of any advanced education course by an institution or body (whether or not it forms part of any Government Department) that provides any such course;

(vi)

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- (vi) the granting or allocation of financial assistance to institutions and bodies (including those forming part of any Government Department) that provide advanced education courses or post-secondary courses of study that in the opinion of the Board may be suitable to be approved as advanced education courses; No. 29, 1969
- (vii) the scale of fees to be charged by colleges of advanced education in connection with enrolment in classes or courses, or in connection with examinations, the conferring of academic awards and other services;
- (b) to take such steps as it thinks fit to ensure co-ordination of advice to the Minister on matters related to advanced education courses;
- (c) to co-ordinate all requests and submissions, relating to financial assistance from the Government of the State or of the Commonwealth of Australia, made to the Minister by institutions or bodies (including those forming part of any Government Department) that provide advanced education courses and, if requested by the Minister, to review any such requests or submissions;
- (d) to take such steps as it thinks fit to ensure that consistent with sound educational practice the greatest effectiveness and economy in expenditure by institutions or bodies (including those forming part of any Government Department) that provide advanced education courses is achieved;
- (e) to determine the academic staff establishment for each college of advanced education;
- (f) to foster research into matters relevant to the development and improvement of post-secondary education, other than university education, by
such

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such means as it thinks fit including the making of recommendations for the provision of scholarships, fellowships, and financial assistance to institutions conducting or proposing to conduct research into any such matters; and

- (g) to confer and collaborate with the Universities Board and the Commonwealth Advisory Committee on Advanced Education or any other body constituted by the Government of the State or of the Commonwealth of Australia or under any Act or Act of the Parliament of the Commonwealth of Australia or otherwise, on such matters as are within the functions and powers of the Advanced Education Board.

(2) In the performance of its functions and the exercise of its powers under this Act, the Advanced Education Board shall have regard to the needs of the State and to the resources available to the State for education.

Committees
of Advanced
Education
Board.

7. (1) The Advanced Education Board may appoint such committees as it thinks fit to assist and advise it in connection with the carrying out of its functions and the exercise of its powers under this Act.

(2) Any such committee may consist of members of the Advanced Education Board, persons who are not members of that Board or partly of persons who are, and partly of persons who are not, members of that Board.

(3) A member of any such committee, not being a member of the Board, shall be entitled to receive such travelling expenses and, if the Minister so approves, such fees for acting as a member of the committee as may be fixed from time to time by the Minister.

8.

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8. The Advanced Education Board shall as soon as practicable, but not more than three months after the thirty-first day of December in each year, cause a report on its work and activities during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament.

No. 29, 1969
Annual
report.

PART IV.

UNIVERSITIES BOARD.

9. (1) There shall be constituted a board to be called the New South Wales Universities Board.

New South
Wales
Universities
Board.

(2) The Universities Board shall consist of such number, being not less than seven nor more than nine, of persons as may be appointed by the Governor.

(3) Of the members of the Universities Board—

(a) one shall be—

(i) where Part III of this Act has, on the date on which the first or any subsequent nomination of persons to be members of the Universities Board is made by the Minister, commenced, a person nominated by the Minister who is a member of the Advanced Education Board the person appointed to be a member of the Advanced Education Board under subsection three of section five of this Act; or

(ii) where Part III of this Act has not, on that date, commenced, a person nominated by the Minister who in the opinion of the Minister would, if the New South Wales Advanced Education Board to be constituted under that Part had been constituted, have been suitable for nomination as a member of that Board; and

(b)

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- (b) the remainder shall be appointed on the nomination of the Minister made after consultation with such persons and bodies as the Minister thinks fit.

(4) Where a person appointed to be a member of the Universities Board—

- (a) pursuant to subparagraph (i) of paragraph (a) of subsection three of this section ceases to be a member of the Advanced Education Board; or
- (b) pursuant to subparagraph (ii) of that paragraph is not, upon the commencement of Part III of this Act, or ceases thereafter to be, a member of the Advanced Education Board,

he thereupon ceases to hold office as a member of the Universities Board and there is a casual vacancy in his office.

(5) Any member of the Universities Board so designated by the instrument of his appointment shall be a full-time member of that Board and if any such member, except with the approval in writing of the Minister, engages during his term of office in any paid employment outside the duties of his office as a member of that Board he thereupon ceases to hold office as a member of that Board and there is a casual vacancy in his office.

(6) The appointment—

- (a) of a full-time member of the Universities Board shall be for a term of seven years; and
- (b) of any other member of that Board shall be for a term of five years,

and any such member shall, if otherwise qualified, be eligible for reappointment.

(7) A person shall not be appointed—

- (a) as a full-time member of the Universities Board if he is of or above the age of sixty-five years; or

(b)

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- (b) as a member, other than a full-time member, of that Board if he is of or above the age of seventy years. No. 29, 1969

(8) A member of the Universities Board ceases to hold office as such a member and there is a casual vacancy in his office—

- (a) in the case of a full-time member, upon his attaining the age of sixty-five years; and
- (b) in the case of a member other than a full-time member, upon his attaining the age of seventy years.

10. The functions of the Universities Board shall be— Functions
of the
Universities
Board.

- (a) to make reports and recommendations to the Minister, either of its own motion or at the request of the Minister, with respect to—
- (i) the provision, maintenance, development, improvement and co-ordination of university facilities; and
- (ii) the granting of financial assistance to universities; and
- (b) for these purposes—
- (i) to confer with universities;
- (ii) to confer and collaborate with the Advanced Education Board and the Australian Universities Commission or any other body constituted by the Government of the State or of the Commonwealth of Australia or under any Act or Act of the Parliament of the Commonwealth of Australia or otherwise;
- (iii) to co-ordinate all requests and submissions relating to financial assistance from the Government of the State or of the Commonwealth of Australia made to the

Minister

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Minister by universities and, if requested by the Minister, to review any such requests or submissions.

Committees of Universities Board.

11. (1) The Universities Board may appoint such committees as it thinks fit to assist and advise it in connection with the carrying out of its functions under this Act.

(2) Any such committee may consist of members of the Universities Board, persons who are not members of that Board or partly of persons who are, and partly of persons who are not, members of that Board.

(3) A member of any such committee, not being a member of the Board, shall be entitled to receive such travelling expenses and, if the Minister so approves, such fees for acting as a member of the committee as may be fixed from time to time by the Minister.

Annual report.

12. The Universities Board shall as soon as practicable, but not later than three months after the thirty-first day of December in each year, cause a report of its work and activities during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament.

PART V.

HIGHER EDUCATION AUTHORITY.

Higher Education Authority.

13. (1) There shall be constituted an authority to be called the New South Wales Higher Education Authority.

(2) The Higher Education Authority shall consist of five members to be appointed by the Governor.

(3)

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(3) Of the members of the Higher Education Authority— No. 29, 1969

- (a) two shall be persons nominated by the Minister and appointed by reason of their being members of the Advanced Education Board;
- (b) two shall be persons nominated by the Minister and appointed by reason of their being members of the Universities Board; and
- (c) one, who may or may not be a member of either of those Boards, shall be appointed on the nomination of the Minister made after consultation with such persons and bodies as the Minister thinks fit.

(4) Where a person appointed to be a member of the Higher Education Authority by reason of his being a member of the Advanced Education Board or the Universities Board ceases to be a member of the Advanced Education Board or the Universities Board, as the case may be, he ceases to hold office as a member of the Higher Education Authority and there is a casual vacancy in his office.

(5) The appointment of a member of the Higher Education Authority shall be for a term of five years and any such member shall, if otherwise qualified, be eligible for reappointment.

(6) A person shall not be appointed as a member of the Higher Education Authority if he is of or above the age of seventy years.

(7) A member of the Higher Education Authority ceases to hold office as such a member and there is a casual vacancy in his office upon his attaining the age of seventy years.

14. (1) The Governor may appoint two alternate Alternate members. members of the Higher Education Authority, of whom one shall be appointed by reason of his being a member of the Advanced Education Board and the other by reason of his being a member of the Universities Board.

(2)

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(2) The provisions of subsections four, five, six and seven of section thirteen of this Act apply to an alternate member of the Higher Education Authority in the same way as those provisions apply to a member of the Higher Education Authority.

(3) An alternate member may attend a meeting of the Higher Education Authority at which a member of the Higher Education Authority having the same qualification for appointment to the Higher Education Authority as himself is absent.

(4) An alternate member attending a meeting of the Higher Education Authority shall be deemed to be a member of the Higher Education Authority.

Functions
of the
Higher
Education
Authority.

15. The functions of the Higher Education Authority shall be—

- (a) to promote the most beneficial and effective relationship between the universities and the colleges of advanced education;
- (b) to take such steps as it thinks fit to promote consistency between the recommendations made to the Minister by the Advanced Education Board and the Universities Board and to ensure that adequate information with respect to those recommendations is presented to the Minister;
- (c) to review and advise the Minister on such matters as the Minister may refer to the Authority.

PART VI.

COLLEGES OF ADVANCED EDUCATION.

Constitution
of colleges
of advanced
education
as corporate
bodies.

16. (1) The Minister, by notification published in the Gazette, may, for the purposes of subsection two of this section, constitute a body corporate consisting of such persons,

not

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not exceeding twenty-three, as may be appointed by him after **No. 29, 1969** consultation with such persons and bodies as he thinks fit and as may be specified in the notification.

(2) The Minister may, by the notification constituting a body corporate under subsection one of this section or by a subsequent notification published in the Gazette, declare that body corporate to be a college of advanced education under the corporate name specified in the notification.

(3) A college of advanced education constituted under this section is in this Act referred to as a "corporate college of advanced education".

(4) A corporate college of advanced education—

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may take proceedings and be proceeded against in its corporate name;
- (d) may, for the purposes for which it is constituted, but subject to subsection five of this section, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- (e) may do and suffer all other things that bodies corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.

(5) A corporate college of advanced education shall not purchase, exchange or take on lease any real property except with the approval in writing of the Minister.

(6) The members of a corporate college of advanced education, as first constituted under this section, shall be appointed to hold office for such period as may be determined by the Minister and specified in the notification in the Gazette appointing them and for such further period, if any, as the Minister may, before the expiration of that specified period determine and notify to them.

(7)

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(7) Upon the expiration of the period for which the members of a corporate college of advanced education, as first constituted under this section, hold office in accordance with subsection six of this section, the college shall, without its continuity being affected, be reconstituted and shall thereafter consist of—

- (a) official members;
- (b) elected members; and
- (c) nominated members,

who shall be appointed by the Governor and shall take office as members of the college immediately after the expiration of that period.

(8) Of the members of a corporate college of advanced education, other than the members of that college as first constituted under this section—

- (a) the official members shall consist of the principal officer of the college and such number, not exceeding two, of persons as are, by the by-laws of the college in force from time to time designated as official members;
- (b) the elected members shall be—
 - (i) such number, not being less than one nor more than three, of persons as are required by the by-laws of the college as in force from time to time to be elected, in accordance with those by-laws, as members of the college by such servants of the college as are by those by-laws designated as full-time officers or superior officers of the college; and
 - (ii) one person elected, in accordance with the by-laws of the college as in force from time to time, by the students of the college; and

(c)

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(c) the nominated members shall be nominated by the No. 29, 1969 Minister and shall include—

- (i) persons experienced in educational fields;
- (ii) persons experienced in industry or commerce;
- (iii) persons practising or who have practised in one of the professions; and
- (iv) persons having such other experience or qualifications as the Minister deems appropriate,

but shall not include servants of the college.

(9) A corporate college of advanced education, other than a college as first constituted under this section, shall consist of not less than fifteen nor more than twenty-three members.

(10) The members, other than the official members, of a corporate college of advanced education, other than a college as first constituted under this section, shall be appointed to hold office for a term of four years, and any such member shall, if otherwise qualified, be eligible for re-election and reappointment or for reappointment.

(11) A person shall not be eligible to be appointed or elected to a corporate college of advanced education if he is of or above the age of seventy years.

(12) A member of a corporate college of advanced education—

- (a) being an official member, ceases to hold office as a member of the college and there is a casual vacancy in his office if he ceases to hold the office, if any, by virtue of which he was appointed; and
- (b) being an elected member or a nominated member, ceases to hold office as a member of the college and there is a casual vacancy in his office upon his attaining the age of seventy years.

(13)

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(13) Where a casual vacancy occurs in the office of a member of a corporate college of advanced education a person shall be appointed or elected to fill the vacant office in the same manner as that in which the member whose office is vacant was appointed or elected, or in such cases or circumstances as are specified in the by-laws of the college a person shall, in the manner so specified, be selected to fill the vacant office.

Colleges of advanced education within Government Departments.

17. (1) The Minister may, by notification published in the Gazette, declare any educational institutions or body forming part of a Government Department to be a college of advanced education under the name specified in the notification.

(2) The Minister may, by a further notification published in the Gazette, revoke a notification under subsection one of this section relating to a college of advanced education and, in accordance with section sixteen of this Act, constitute a body corporate to be the college of advanced education to take the place of that firstmentioned college of advanced education.

(3) The Minister shall not exercise his powers under subsection one of this section in respect of an educational institution or body forming part of a Government Department not administered by him except with the concurrence of the Minister for the time being administering that Government Department.

Appointment of servants of corporate colleges of advanced education.

18. (1) A corporate college of advanced education may appoint and employ such servants as may be necessary for carrying out its functions, but shall not appoint or employ—

- (a) a person as a member of the academic staff of the college unless the position to or in which he is to be appointed or employed is within the academic staff establishment of the college as determined by the Advanced Education Board; or

(b)

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- (b) a person otherwise than as a member of the academic staff of the college unless the position to or in which he is to be appointed or employed is within the staff (other than academic staff) establishment of the college as determined by the Public Service Board. No. 29, 1969

(2) Subject to this Act, a corporate college of advanced education shall in respect of servants of the college have power—

- (a) to determine promotions, whether or not of academic staff;
- (b) to determine the qualifications required to be held by persons to be appointed or promoted within the academic staff establishment of the college;
- (c) to discipline, in accordance with the by-laws of the college, servants of the college, whether or not they are members of the academic staff of the college; **and**
- (d) to impose penalties, in accordance with the by-laws of the college, for breaches of discipline by servants of the college, whether or not they are members of the academic staff of the college.

(3) Except in so far as provision is otherwise made by law, and subject to the provisions of subsection two of this section, the conditions of employment, including salaries, wages or remuneration, of servants of a corporate college of advanced education shall be as may be determined from time to time by the Public Service Board.

(4) In respect of any matter in respect of which the Public Service Board is entitled to make a determination under subsection three of this section, that Board shall, for the purpose of making any determination or for the purpose of any proceedings held before a competent tribunal having power to deal with industrial matters within the meaning of the Industrial Arbitration Act, 1940, as subsequently amended, be deemed to be the employer of the servants of corporate

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 ——— corporate colleges of advanced education, and a corporate college of advanced education shall be deemed not to be the employer of those servants.

(5) In respect of any matter in respect of which a corporate college of advanced education has powers under subsection two of this section, the Public Service Board shall, for the purpose of any proceedings held before a competent tribunal having power to deal with industrial matters within the meaning of the Industrial Arbitration Act, 1940, as subsequently amended, be deemed to be the employer of the servants of corporate colleges of advanced education, and a corporate college of advanced education shall be deemed not to be the employer of those servants.

(6) Any determination made by the Public Service Board in respect of a matter referred to in subsection three of this section and any order or determination made by a competent tribunal in any proceedings referred to in subsection four or five of this section shall be given effect to by the corporate college of advanced education in respect of which the determination or order is made.

(7) A reference in section 11A of the Public Service Act, 1902, as subsequently amended, to an officer shall be construed as including a reference to a corporate college of advanced education and to an officer of such a college.

(8) The provisions of the Crown Employees Appeal Board Act, 1944, as subsequently amended, do not apply to servants of corporate colleges of advanced education.

Transfer
 of certain
 officers and
 employees
 of public
 service to
 corporate
 colleges of
 advanced
 education.

19. (1) Where the Minister constitutes a corporate college of advanced education he may by the notification constituting the college or by a subsequent notification specify the names of persons to be transferred to the service of the college.

(2)

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(2) The name of any person shall not be included No. 29, 1969 in any such notification unless—

- (a) he is a member of the public service employed in connection with the provision of the advanced education courses or the courses or programmes of study provided or to be provided by the college of advanced education; and
- (b) he concurs, in writing, in the inclusion of his name in the notification.

(3) If, on the date on which the notification is published in the Gazette a person whose name is included in the notification is a member of the public service, that person shall, on that date, be transferred to the service of and become a servant of the college of advanced education to which the notification relates.

(4) A person transferred to the service of a college of advanced education under this section—

- (a) shall be paid salary or wages at a rate not less than the rate which was payable to him immediately before he was so transferred, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, as subsequently amended until such salary or wages is or are varied or altered by the Public Service Board; and
- (b) shall retain any rights which, at the time of his transfer, have accrued or are accruing to him as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any payment or pension as if he had continued to be an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof.

(5)

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(5) Where any condition of employment of any officer or employee transferred to the service of a college of advanced education under this section was, immediately before he was so transferred, regulated by an award or industrial agreement or agreement made under or in pursuance of the Public Service Act, 1902, as subsequently amended, that condition shall continue to be so regulated until an award or industrial agreement regulating that condition and binding on the college is made by a competent tribunal.

(6) In respect of any person liable to make contributions referred to in paragraph (b) of subsection four of this section the college to whose service he is transferred under this section shall pay to the State Superannuation Board such contributions and payments as would have been payable by the Government of New South Wales if such person had remained a member of the public service and had been paid salary or wages at the rate paid to him by that college.

(7) Annual, sick and long service leave shall continue to accrue to a servant transferred to a college of advanced education under this section on the same basis as they accrued to him as an officer or employee of the public service immediately before he was so transferred until that basis is varied or altered in accordance with this Act.

(8) For the purpose of calculating the entitlement to long service leave of any servant transferred to a college of advanced education under this section—

- (a) any service of the servant which, by the terms of any Act or of any industrial agreement or award under the Industrial Arbitration Act, 1940, as subsequently amended, was, immediately before he was so transferred, required to be taken into account for the purpose of determining his entitlement to that leave as an officer of the public service shall be deemed to be service with that college:
and

(b)

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- (b) there shall be deducted from any long service leave No. 29, 1969 to which the servant of the college becomes entitled, as such a servant, any long service leave already taken by him in respect of any period of service referred to in paragraph (a) of this subsection.

(9) A servant transferred to a college of advanced education under this section shall be entitled to receive as a servant of the college any annual leave or sick leave accrued to him as an officer or employee of the public service as at the date on which he was so transferred.

(10) Any person transferred to the service of a college of advanced education under this section shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

(11) Nothing in this section affects the operation of any of the provisions of the Industrial Arbitration Act, 1940, as subsequently amended.

20. A college of advanced education shall have the responsibility of providing such advanced education courses as are approved by the Minister in respect of that college, at such place or places as may be so approved and may provide other courses or programmes of study in fields approved by the Minister. Colleges of advanced education to provide advanced education courses.

21. (1) A corporate college of advanced education shall be responsible for the control and management of its affairs and concerns and at all times shall act in such manner as appears best calculated to promote the purposes and interests of the college. Powers and duties of corporate colleges of advanced education.

(2) Subject to this Act, a corporate college of advanced education—

- (a) shall be responsible for the care and maintenance of any real or personal property under its control or management;

(b)

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- (b) may provide courses or programmes of study, confer academic awards, grant and issue certificates evidencing those awards in respect of the classes of students or other persons eligible under the by-laws of the college;
- (c) may acquire by gift, devise or bequest any property for the purposes of this Act and may agree to carry out the conditions of any such gift, bequest or devise;
- (d) may borrow money for the purposes of carrying out and performing any of its powers, authorities, duties and functions, the renewal of loans or the discharge or partial discharge of any indebtedness to any bank within such limits, to such extent and upon such conditions as to security or otherwise as the Governor upon the recommendation of the Treasurer may approve;
- (e) may invest any funds belonging to or vested in the college in such securities as may be prescribed by the by-laws;
- (f) shall have the control and management of all real and personal property at any time vested in or acquired by the college;
- (g) shall co-operate with the Advanced Education Board to ensure that the college offers courses to meet the needs as determined by that Board of the region that the college serves and of the State; and
- (h) shall forward to the Advanced Education Board at such times as may be required by that Board estimates of the financial and other needs of the college for periods specified by that Board.

(3) The provisions of paragraphs (b), (g) and (h) apply to a college of advanced education that is not a corporate college of advanced education in the same way as they apply to a corporate college of advanced education.

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22. A college of advanced education shall not, where any charge in respect of the enrolment of persons in classes or courses conducted or provided by it or in respect of examinations, the conferring of academic awards or other services provided by the college, has been fixed by the Minister, make any other charge in respect of any such matter. No. 29, 1969
Fees.

23. A certificate evidencing any academic award conferred by a corporate college of advanced education shall be under the seal of that college. Certificate
to be under
seal.

24. A corporate college of advanced education shall as soon as practicable, and not more than three months after the thirtieth day of June in each year prepare and transmit to the Minister for presentation to Parliament statements of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial transactions for the year. Accounts.

25. The accounts of each corporate college of advanced education shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter in force relating to the audit of public accounts; and the Audit Act, 1902, and Acts amending that Act, shall apply to the members and officers and employees of the college in the same manner as it applies to accounting officers of public departments. Audit.

26. Each college of advanced education and any other institution conducting advanced education courses shall as soon as practicable but not more than three months after the thirty-first day of December in each year, cause a report on its work and activities in relation to those courses during the year ending on that day to be prepared and forwarded to the Minister. Annual
report.

27.

No. 29, 1969 **27.** No political or religious test shall be administered to any person in order to entitle him to be admitted as a student of any college of advanced education, or to hold office therein, or to be eligible to receive any academic award, or to enjoy any benefit, advantage or privilege thereof.

No religious test or political discrimination.

By-laws. **28.** (1) A corporate college of advanced education may make by-laws, not inconsistent with this Act or the regulations, with respect to—

- (a) all matters which by this Act are required or permitted to be prescribed by by-laws or which are necessary or convenient for the purpose of carrying out or giving effect to this Act;
- (b) the discipline of servants of the college and the imposition of penalties for breaches of discipline by servants of the college;
- (c) the management and good government of the college and the discipline of the students of the college;
- (d) the use and custody of the common seal;
- (e) the conduct of meetings of the college;
- (f) the election of the elected members of the college;
- (g) the person who shall preside, the voting powers of the person presiding, and the quorum, at meetings of the college;
- (h) the appointment of committees of the college, and the quorum, powers and duties of any such committees;
- (i) the manner of appointment, promotion and dismissal of servants of the college;
- (j) the entrance standards for students of the college;
- (k) the examinations for and conferring of awards and the attendance of candidates therefor;

(1)

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- (l) the examinations for and the granting of fellow-No. 29, 1969ships, scholarships, bursaries and prizes;
- (m) the admission of students of other educational institutions to any status within the college or the conferring upon graduates of other educational institutions, or other persons, of academic awards without examination;
- (n) the establishment of residential colleges and halls of residence and their conduct, and the affiliation of residential colleges with the college;
- (o) the affiliation with the college of an educational or research establishment;
- (p) the investment of funds belonging to or vested in the college;
- (q) the payment of out-of-pocket expenses to members of the college.

(2) Every by-law made by a college shall be sealed with the common seal of the college, shall be submitted for consideration and approval of the Governor, and when so approved shall—

- (a) be published in the Gazette; and
- (b) take effect from the date of publication or from a later date specified in the by-law.

(3) A copy of every such by-law shall be laid before both Houses of Parliament within fourteen sitting days after the publication thereof in the Gazette if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) Any such by-law of any college of advanced education may be proved in any court by the production of a verified copy under the seal of the college or by the production of a document purporting to be a copy of such by-law and to be printed by the Government Printer.

PART

PART VII.

GENERAL.

Academic awards not to be conferred unless approved by Minister.

29. An institution or body (including an institution or body forming part of any Government Department) that provides any advanced education course shall not confer any academic award in respect of that course unless it is of a nomenclature approved by the Minister.

General provisions applying to certain educational bodies.

30. (1) In this section "educational body" means the Advanced Education Board, the Universities Board, the Higher Education Authority or a corporate college of advanced education.

(2) A reference in this section to a member of the Higher Education Authority includes a reference to an alternate member of the Higher Education Authority.

(3) The procedure for calling meetings of an educational body and for the conduct of business at those meetings shall, subject, in the case of the Advanced Education Board, the Universities Board, or the Higher Education Authority, to any regulations or, in the case of a corporate college of advanced education, to any by-laws, applying to that body, be as determined by that body.

(4) One of the members of each educational body, other than a corporate college of advanced education, shall, by the instrument of his appointment, be appointed as chairman of that body.

(5) The members of an educational body, other than a corporate college of advanced education, shall elect from amongst their number a deputy chairman, who shall hold office for such period, not exceeding his term of office as a member, as the body at the time of the election determines.

(6) At any meeting of an educational body, other than a corporate college of advanced education, the chairman or, in his absence, the deputy chairman shall preside, but if

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the chairman and the deputy chairman are both absent from **No. 29, 1969** that meeting, a person elected from amongst their number by the members present shall preside at that meeting.

(7) The person presiding at any meeting of an educational body, other than a corporate college of advanced education, in accordance with subsection six of this section shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(8) Where a casual vacancy occurs in the office of a member of an educational body, other than a corporate college of advanced education, the Governor may, on the nomination of the Minister, appoint a person to fill the vacant office so that the membership of that body is constituted as is provided by subsection three of section five, subsection three of section nine or subsection three of section thirteen, of this Act, as the case may be.

(9) The number of members who shall constitute a quorum—

- (a) at a meeting of the Advanced Education Board, the Universities Board or the Higher Education Authority shall be four; and
- (b) at a meeting of a corporate college of advanced education shall be as specified in the by-laws made by that college,

and the decision of the majority of members present at a meeting of any such educational body at which a quorum is present shall be the decision of that body.

(10) In addition to any other manner in which a member of an educational body, other than an official member of a corporate college of advanced education, may, under this Act, cease to hold office as a member of that body or in which a casual vacancy in his office may occur, such a member ceases to hold office as a member of that body and there is a casual vacancy in his office—

- (a) if he dies;

(b)

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- (b) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as subsequently amended;
 - (c) if he resigns his office in writing under his hand addressed to the Governor and his resignation is accepted;
 - (d) if he becomes bankrupt, compounds with his creditors or makes any assignment of his estate for their benefit;
 - (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or a misdemeanour so punishable;
 - (f) is absent from three consecutive meetings of the body of which reasonable notice has been given to him personally or in the ordinary course of post and is not, within six weeks after the last of those meetings, excused by the body for his absence from those meetings;
 - (g) is removed from office by the Governor.

(11) A person appointed to fill a casual vacancy, however occurring, in the office of a member of an educational body shall be appointed to the vacant office for the balance of his predecessor's term of office and is, if otherwise qualified, eligible for reappointment or election to that office on the expiration of the term for which he was appointed.

(12) A member of an educational body, other than a corporate college of advanced education, shall be entitled to receive such travelling expenses and such remuneration, if any, as may be fixed from time to time by the Governor.

(13)

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(13) The provisions of the Public Service Act, 1902, No. 29, 1969 as subsequently amended, do not apply to or in respect of the appointment of any member of an educational body and any such member is not, in his capacity as such a member, subject to the provisions of that Act, as so amended.

(14) Any act or proceeding of an educational body is, notwithstanding that at the time when the act or proceeding was done, taken or commenced there was—

- (a) a vacancy in the office of a member of the body; or
- (b) any defect in the appointment, or any disqualification, of a member of the body,

as valid as if the vacancy, defect or disqualification did not exist and the body were fully and properly constituted.

31. (1) A person who, at the date of his appointment as a full-time member of the Advanced Education Board or the Universities Board, is an officer of the public service and who ceases to be such a member from any cause whatsoever, otherwise than in pursuance of subsection ten (paragraph (c) or (g) excepted) of section thirty of this Act shall if he is under the age of sixty years be appointed to some office in the public service not lower in classification and salary than that which he held immediately before his appointment as such a member.

Saving of rights of certain full-time members of Advanced Education Board or Universities Board.

(2) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, to any person appointed as such a full-time member who is at the time of his appointment or has been at any time previous thereto an officer of the public service or an employee within the meaning of the Superannuation Act, 1916, as subsequently amended.

(3) Any officer of the public service or any person who is an employee within the meaning of the Superannuation Act, 1916, as subsequently amended, who is appointed as such a full-time member shall continue to contribute to any fund or account and shall be entitled to receive any deferred

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No. 29, 1969 or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, as the case may be, and for such purpose his service as such a full-time member shall be deemed to be service for the purpose of those Acts.

In respect of a full-time member who contributes to a fund or account as aforesaid, the Board of which he is such a full-time member shall pay to the State Superannuation Board such amounts as would have been payable if that full-time member had remained an employee as aforesaid and had continued to be employed, at the same salary or wages as the salary or wages at which he is employed by that Board, by the employer by whom he was employed immediately before his appointment as such a full-time member.

Application
of certain
provisions
of Technical
Education
Act, 1949.

32. (1) A reference in subsection two of section five of the Technical Education Act, 1949, as subsequently amended, to the provision, within the Department of Technical Education, of facilities for and in respect of technical education includes a reference to the provision of facilities for and in respect of colleges of advanced education whether or not those facilities are provided within the Department of Technical Education.

(2) The provision of facilities for and in respect of colleges of advanced education shall for the purposes of section forty-nine of the Technical Education Act, 1949, as subsequently amended, be deemed to be a purpose of that Act, as so amended.

Regulations. 33. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

(a) any matter with respect to which by-laws may be made by a corporate college of advanced education;

(b)

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- (b) the keeping of records and accounts by corporate colleges of advanced education and the supply to the Advanced Education Board of information relating to those colleges and to advanced education courses;
- (c) the administration and functions of colleges of advanced education;
- (d) prescribing all matters which by this Act are required or permitted to be prescribed by regulations or which are necessary or convenient for carrying out or giving effect to this Act.

(2) A regulation made under subsection one of this section may apply to all corporate colleges of advanced education or to any corporate college of advanced education specified in the regulation and shall, to the extent of any inconsistency with any by-law made by a corporate college of advanced education to which it applies, prevail over that by-law.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect on and from the date of publication or from a later date to be specified in the regulation; and
- (c) be laid before each House of Parliament within fourteen sitting days of that House after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days of that House after a regulation has been laid before it, disallowing the regulation or part thereof, the regulation or part thereupon ceases to have effect.