

# DARWIN COMMUNITY COLLEGE ORDINANCE 1973

1523

No. 42 of 1973

## An Ordinance to establish the Darwin Community College

[Assented to 12 July, 1973]

**B**E it ordained by the Legislative Council for the Northern Territory of Australia as follows:—

1. This Ordinance may be cited as the *Darwin Community College Ordinance 1973*. Short title
2. This Ordinance shall come into operation on such date as the Administrator fixes by notice published in the *Gazette*.\* Commencement
3. In this Ordinance, unless the contrary intention appears— Definitions
  - “Chairman” means the Chairman of the Council;
  - “College” means the Darwin Community College established by this Ordinance;
  - “Council” means The Council of the Darwin Community College established under this Ordinance;
  - “Deputy Chairman” means the Deputy Chairman of the Council;
  - “member” means a member of the Council;
  - “Minister” means the Minister of State for Education;
  - “Principal” means the Principal of the College.
- 4.(1) A body corporate is hereby established under the name of “Darwin Community College”. Establishment of College
  - (2) The College—
    - (a) shall have a seal;
    - (b) has power to acquire, hold and dispose of real and personal property; and
    - (c) may sue and be sued in its corporate name.
  - (3) The design of the seal of the College shall be as determined by the Council.

\* The date fixed was 19 July, 1973 (see *Northern Territory Government Gazette* No. 29 of 19 July, 1973, page 251).

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(4) The seal of the College shall be kept in such custody as the Council directs and shall not be used except as authorized by the Council.

(5) All courts, judges and persons acting judicially shall take judicial notice of the seal of the College affixed to a document and shall presume that it was duly affixed.

**Functions of  
College**

**5. The functions of the College are—**

- (a) to conduct an institution for the provision for Darwin and such other parts of the Northern Territory as the College considers necessary or desirable of education and training of such kinds, in such fields of science, technology, the arts, administration, commerce and other fields of knowledge or the application of knowledge, as the Council, with the approval of the Minister, determines, or as the Minister requires;
- (b) to make assessments from time to time of the kinds, fields and levels of education and training that, in its opinion, should be provided by the College to meet the educational needs of the Northern Territory; and
- (c) to use the facilities and resources of the College to advance knowledge and skills in the fields in which the College is concerned.

**Powers of  
College**

**6.(1)** The College has power to do all things that are necessary or convenient to be done in, or in connexion with, the performance of its functions.

(2) Without limiting the generality of sub-section (1), the powers of the College referred to in that sub-section include power—

- (a) to enter into an arrangement with one or more of the universities or institutions of advanced education in Australia, or with one or more of the States that administer education, for the establishment in the College of courses of lectures or studies for degrees, diplomas or otherwise;
- (b) to co-operate with other institutions that provide facilities for teaching or research;
- (c) to conduct such courses of study and instruction, and at such levels, in the kinds and fields of education and training provided by the College as the Council determines or as the Minister requires;
- (d) to make such awards in relation to the passing of examinations or otherwise in relation to the edu-

cation and training provided by the College as are provided for by the Rules of the College;

- (e) subject to sub-section (3), to enter into contracts;
- (f) to purchase, take on lease or otherwise acquire and to sell, grant leases of or otherwise dispose of, real or personal property;
- (g) to erect buildings;
- (h) to occupy, use and control any land or building owned or held under lease and made available for the purpose of the College;
- (i) to employ such persons as are necessary;
- (j) to establish committees for the carrying out of any of its functions and appoint persons (including persons who are not members of the Council) to be members of such a committee;
- (k) to accept gifts, devises, bequests and assignments made to the College, whether on trust or otherwise, and to act as trustees of moneys or other property vested in the College upon trust;
- (l) to invest moneys of the College and to dispose of investments;
- (m) to establish halls of residence in association or affiliation with the College; and
- (n) to provide and maintain libraries, laboratories and museum facilities in connexion with the College.

(3) The College shall not, except with the approval of the Minister, enter into a contract involving the payment by the College of an amount exceeding 100,000 dollars.

(4) Notwithstanding anything contained in this Ordinance, any money or property held by the College upon trust shall be dealt with in accordance with the powers and duties of the College as trustee.

7.(1) The governing body of the College is a Council to be known as "The Council of the Darwin Community College".

The Council

(2) All acts and things done in the name of, or on behalf of, the College with the authority of the Council shall be deemed to have been done by the College.

8.(1) The Council shall consist of—

Constitution of Council

- (a) the Principal;
- (b) a full-time member of the teaching staff of the college elected by that teaching staff;
- (c) a student of the college elected by the students of the College;

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- (d) persons, not exceeding 8 in number, appointed by the Administrator in Council;
- (e) persons, not exceeding 4 in number, appointed by the other members of the Council; and
- (f) if a person other than a person who is already a member of the Council is appointed in accordance with section 13 to be the Chairman, the person so appointed.

(2) If a person other than the Principal is for the time being performing the duties of the office of Principal, that person may attend meetings of the Council and, for the purposes of those meetings, shall be deemed to be a member of the Council.

(3) The term of office of a member other than the Principal shall be as provided by this Ordinance, but such a member is, subject to this Ordinance, eligible for re-appointment or re-election.

Member elected  
by teaching staff

**9.(1)** A member elected by the teaching staff of the College shall hold office, subject to this Ordinance, for a period of one year.

(2) If a member elected by the teaching staff of the College has ceased to hold office before the expiration of his term of office, a member of that teaching staff shall, if the Administrator in Council so directs, be elected by that teaching staff to hold office until the expiration of that term.

(3) A member elected by the teaching staff of the College ceases to be a member if he ceases to be a member of that teaching staff.

(4) Where a person has been elected by the teaching staff of the College under this section as a member on 2 occasions, he is not eligible to be again so elected as such a member.

Member elected  
by students

**10.(1)** A member of the Council elected by the students of the College shall hold office, subject to this Ordinance, for a period of one year.

(2) If a member elected by the students of the College has ceased to hold office before the expiration of his term of office, a student of the College shall, if the Administrator so directs, be elected by the students of the College, to hold office from the date of his election until the expiration of that term.

(3) Except as otherwise provided by the Rules, a member elected by the students of the College ceases to be a member if the Council determines that he has ceased to be a student of the College.

(4) Where a person has been elected as a member by the students of the College under this section on 2 occasions, he is not eligible to be again so elected as such a member.

11. A member appointed by the Administrator in Council in accordance with section 8(1)(d) shall be appointed to hold office, subject to this Ordinance, for such period, not exceeding 4 years, as the Administrator in Council thinks fit.

Members  
appointed by  
the Administrator

12. A member appointed by the Council in accordance with section 8(1)(e) shall be appointed to hold office, subject to this Ordinance, for such period, not exceeding 4 years, as the Council thinks fit.

Members  
appointed by  
Council

13.(1) The Council shall, from time to time, as the occasion requires—

Chairman and  
Deputy Chairman  
of the Council

(a) appoint a member of the Council referred to in section 8(1)(d) or (e), or another person, to be the Chairman of the Council; and

(b) appoint a member of the Council referred to in that paragraph to be the Deputy Chairman of the Council.

(2) If the Council appoints as Chairman a person who is not a member, the Council shall specify a period, not exceeding four years, as the term for which he is appointed, and the person so appointed—

(a) becomes a member on the date on which his appointment as Chairman takes effect and continues to be a member, subject to this Ordinance, for the period so specified;

(b) ceases to be Chairman at the end of the period so specified or if he sooner ceases to be a member; and

(c) may resign his office as Chairman by writing under his hand delivered to the Administrator, in which event he also ceases to be a member.

(3) A member of the Council appointed as Chairman or Deputy Chairman holds office as Chairman or Deputy Chairman—

(a) for the period, if any, fixed by the Council at the time of his appointment; or

(b) if no period is so fixed, until the expiration of his term of office as a member that is current at the time of his appointment,

but ceases to be the Chairman or Deputy Chairman if he ceases to be a member, and may resign his office as Chairman by writing under his hand delivered to the Deputy Chairman or resign

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his office as Deputy Chairman by writing under his hand delivered to the Chairman, as the case requires.

(4) A person is eligible to be re-appointed as the Chairman or Deputy Chairman.

## Disqualifications

**14.** A person who—

(a) is an undischarged bankrupt or a person in respect of whom there is in operation a composition, deed of arrangement or deed of assignment with his creditors under the law relating to bankruptcy; or

(b) is under sentence of imprisonment for an offence, is not capable of becoming a member.

## Vacation of office

**15.**(1) If a member other than the Principal—

(a) becomes a person referred to in section 14(a) or (b);

(b) is absent without leave of the Council from 3 consecutive meetings of the Council; or

(c) without reasonable excuse, fails to comply with his obligations under sub-section (2),

the Administrator shall terminate his employment.

(2) A member who is directly or indirectly interested in a contract made or proposed to be made by the College, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(3) A disclosure under sub-section (2) shall be recorded in the minutes of the Council and the member—

(a) shall not take part after the disclosure in any deliberation or decision of the Council with respect to the contract; and

(b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberations or decision.

(4) If an interest referred to in sub-section (2) is patent, that sub-section does not apply but sub-section (3) applies as if there had been a disclosure in accordance with sub-section (2).

(5) The Administrator in Council may terminate the appointment of a member other than the Principal from office on the ground of misbehaviour or physical or mental incapacity.

(6) A member other than the Principal may resign from membership of the Council by writing under his hand delivered to the Chairman or the Deputy Chairman.

16. A member, other than the Principal, shall be paid such fees and allowances as are prescribed. Fees and allowances

17.(1) The Chairman or, if for any reason the Chairman is not available, the Deputy Chairman— Meetings of Council

- (a) may convene meetings of the Council, and shall comply with any resolution of the Council with respect to the convening of meetings; and
- (b) shall, within 7 days after receipt of a written request signed by not less than 4 members, convene a meeting of the Council.

(2) If neither the Chairman nor the Deputy Chairman is available, the Minister may convene a meeting of the Council.

(3) The Chairman shall preside at all meetings of the Council at which he is present.

(4) At a meeting of the Council at which the Chairman is not present, the Deputy Chairman shall preside.

(5) At a meeting of the Council at which neither the Chairman nor the Deputy Chairman is present, the members present shall appoint one of their number to preside.

(6) At a meeting of the Council, one-half of the members for the time being of the Council constitute a quorum.

(7) Subject to sub-section (8), all questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting, and for that purpose, the member presiding at the meeting has a deliberative vote only.

(8) In the event of an equality of votes on a resolution proposed at a meeting of the Council, the resolution shall be taken not to be passed, but, if the same resolution is proposed at the next meeting of the Council held on a subsequent day and there is again an equality of votes, the member presiding at that meeting has a casting vote on the proposed resolution.

18. No act or proceeding of, or of the members of any committee of, the Council is invalidated by reason of— Validity of proceedings

- (a) a defect in the appointment or election of a member;
- (b) a disqualification of a member;
- (c) a defect in the convening of a meeting; or
- (d) a vacancy or vacancies in the membership of the Council.

Interim Council

**19.(1)** On 1 January 1974 (in this section referred to as "the appointed day"), the Council shall commence to exercise its powers.

(2) The body known as the Interim Council of the Darwin Community College established by the Minister before the date of commencement of this Ordinance holding office immediately before that date shall continue as an Interim Council of the College after that date.

(3) A member, including the Chairman, of the Interim Council holding office immediately before the commencement of this Ordinance shall, subject to this section, continue to hold that office after that date.

(4) The Minister may, at any time, appoint a person to hold office on the Interim Council.

(5) The Minister may, at any time, remove a member or the Chairman of the Interim Council from office or from the Interim Council and may appoint another person to be a member or the Chairman, as the case may be, of the Interim Council.

(6) Unless and until it is sooner dissolved by the Minister, the Interim Council shall continue in existence until the appointed day and no longer.

(7) The Interim Council shall perform all the functions, and has all the powers, of the Council, except the power to appoint members of the Council or the Chairman or Deputy Chairman of the Council.

(8) The provisions of sections 14, 15, 16, 17 and 18 apply in relation to the Interim Council in like manner as they apply in relation to the Council.

(9) The Minister may give such directions as he thinks necessary in relation to the Interim Council.

Principal of College

**20.** There is hereby established an office in the service of the College of Principal of the College.

Terms and conditions of service of staff

**21.** Subject to any other law in force in the Territory, persons employed by the College shall be employed on such terms and conditions, including conditions with respect to the duration of the employment or with respect to dismissal from employment, as the Council determines.

Rules

**22.(1)** The Council may make Rules, not inconsistent with this Ordinance, with respect to any of the following matters:

- (a) the management, good government and discipline of the College and of the institution conducted by the College;



- (b) the imposition, by or on behalf of the College, of penalties upon students of the College or persons employed by the College for contravention of, or failure to comply with, a Rule with respect to a matter referred to in paragraph (a);
- (c) the elections of members of the Council by the teaching staff and students of the College;
- (d) admission of persons to courses of study or instruction of the College;
- (e) the courses of study and instruction of the College;
- (f) the holding of examinations of the College and the admission of persons to examinations of the College;
- (g) the awards of the College and the requirements for the making of the awards;
- (h) the granting by the College of scholarships, bursaries and prizes; and
- (i) any other matter necessary or convenient for giving effect to this Ordinance.

(2) A Rule may provide for empowering any authority (including the Council) or officer of the College to make rules, not inconsistent with this Ordinance or a Rule, with respect to a matter with respect to which Rules may be made under sub-section (1), or for carrying out or giving effect to the Rules made under that sub-section.

(3) A Rule made by the Council shall be sealed with the seal of the College and transmitted by the Council for the approval of the Administrator in Council.

(4) A Rule approved by the Administrator in Council shall be notified in the *Gazette*, and, upon notification, has the force of law.

(5) The Rules shall be numbered consecutively in the order in which they are notified in the *Gazette*, and a notice in the *Gazette* of the fact that a Rule has been made, specifying the number of the Rule and a place at which copies of the Rule may be purchased, is sufficient compliance with the requirement that the Rule is to be notified in the *Gazette*.

(6) A copy of every Rule notified in the *Gazette* shall be laid before the Legislative Council for the Northern Territory within fifteen sitting days of the Legislative Council after it is so notified.

(7) The production of a document purporting to be a copy of a Rule and to be sealed with the seal of the College or to have been printed by the Government Printer is, in all proceedings, evidence of the Rule.

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College

**23.(1)** A contract to be made by the College, being a contract that, if made by a person other than a body corporate, would be by law required to be in writing under the seal of that person, may be made on behalf of the College in writing under the seal of the College.

- (2) A contract to which sub-section (1) does not apply—
- (a) is not invalid by reason only that it is not executed under the seal of the College;
  - (b) may be made on behalf of the College by a person acting with the authority of the College, express or implied; and
  - (c) if made in writing, may be executed on behalf of the College by that person.

Fees

**24.(1)** Subject to this section, fees are payable to the College, at such rates as, subject to any directions of the Minister, the Council determines for such courses of study or instruction of the College, for admission to such examinations conducted by the College, and for such other facilities or privileges of the College, as the Council determines or the Minister directs.

(2) A student who has been granted by the College, in accordance with the Rules, a scholarship or bursary is exempt from payment of fees to the extent of the exemption applicable under the scholarship or bursary.

(3) The Council may grant exemption from the payment of the whole or any part of any fees otherwise payable by a student if it considers that the payment of the whole or part of the fees, as the case may be, would cause substantial hardship for the student.

Moneys of  
College

**25.** All moneys, including fees, received by the College, other than moneys held upon trust, shall be applied solely for the purposes of the College.

Estimates

**26.(1)** The College shall prepare estimates, in such forms as the Minister directs, of its expenditures for each financial year and for such other period (if any) as the Minister directs and shall submit those estimates to the Minister not later than such date as the Minister directs.

(2) Unless as otherwise approved by the Minister, moneys shall not be expended by the College except as in accordance with those estimates.

Bank accounts

**27.(1)** The College may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The College shall pay all moneys of the College into an account referred to in this section.

(3) In this section, "approved bank" means the Reserve Bank of Australia or another bank approved by the Treasurer.

**28.** The Council shall cause to be kept proper accounts and records of the transactions and affairs of the College and shall do all things necessary to ensure that all payments out of the moneys of the College are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the College and over the incurring of liabilities by the College. Proper accounts to be kept

**29.(1)** The accounts and records of financial transactions of the College shall be audited by a person appointed by the Treasurer. Audit

(2) The auditor shall inspect and audit the accounts and records of financial transactions of the College and records relating to assets of, or in the custody of, the College, including money or other property held on trust, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the auditor, of sufficient importance to justify his so doing.

(3) The auditor may, in his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (2).

(4) The auditor shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(5) The auditor or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the College relating directly or indirectly to the receipt or payment of moneys by the College or to the acquisition, receipt, custody or disposal of assets of the College.

(6) The auditor or a person authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(7) The auditor or a person authorized by him may require a member of the Council or Interim Council or of the staff of the College to furnish him with such information in the possession of that person or to which that person has access as the auditor or authorized person considers necessary for the purposes of an inspection or audit under this Ordinance, and that member shall comply with the requirement.

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(8) A person who contravenes sub-section (7) is guilty of an offence punishable, upon conviction, by a fine not exceeding 200 dollars.

## Reports

**30.**(1) The Council shall, as soon as practicable after each 31 December, prepare and furnish to the Minister a report of the operations of the College during the year ended on that date and a report of the kinds, fields and levels of education and training that it has, from assessments made by the Council during that year, determined should be provided by the College, together with audited financial statements in respect of that year in such form as the Treasurer approves.

(2) Before furnishing the financial statements to the Minister, the Council shall submit them to the auditor appointed under section 29 who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the College during the year have been in accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the auditor considers should be reported to the Minister.

(3) A copy of each report furnished under sub-section (1) shall be laid before the Legislative Council for the Northern Territory within 10 sitting days of the Legislative Council after it has been so furnished.

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