

Introduced by Mr David Barr, MP

First print



New South Wales

Technical and Further Education Commission Amendment (Consultation Procedures) Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to require public consultation to occur before a TAFE establishment (such as a TAFE college) is closed.

Explanatory note

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Technical and Further Education Commission Act 1990* set out in Schedule 1.

Schedule 1 Amendments

Amendments relating to closure of TAFE establishments

Schedule 1 [1] specifically empowers the TAFE Commission to close a TAFE establishment, but only in accordance with the procedure set out in proposed Part 3A. (Section 9 of the Act provides that the TAFE Commission is, in the exercise of its functions, subject to the control and direction of the Minister for Education and Training.)

Schedule 1 [2] inserts proposed Part 3A (Closure of TAFE establishments). That Part includes the following proposed sections:

Proposed section 8A prevents the TAFE Commission from closing a TAFE establishment except in accordance with the proposed Part.

Proposed section 8B requires the TAFE Commission to make an announcement regarding the proposed closure of any TAFE establishment and prevents the closure of a TAFE establishment until the end of the year following an announcement.

Proposed section 8C provides for the TAFE Commission to establish a TAFE Closure Review Committee within 21 days of announcing any proposal to close a TAFE establishment. The proposed section also provides for the composition of the Committee, which is to be chaired by an independent person appointed by the TAFE Commission.

Proposed section 8D requires a TAFE Closure Review Committee to conduct a review of a proposed closure and provides for that review to include public consultation.

Proposed section 8E provides for a TAFE Closure Review Committee to report to the TAFE Commission and provides that, if the TAFE Commission does not accept any recommendation of the Committee, the TAFE Commission is to make public the reasons for its decision.

Proposed section 8F limits the application of the proposed Part. The proposed Part does not apply if the majority of students attending the TAFE establishment approve of the proposed closure or if the Board of the TAFE Commission is satisfied that there are exceptional or emergency circumstances that require an earlier closure of the TAFE establishment.

Amendments relating to property

Schedule 1 [3]–[5] impose limits on the powers of the TAFE Commission in relation to property, where the exercise of those powers relates to the proposed closure of a TAFE establishment or part of a TAFE establishment.

At present, section 23 (2) of the *Technical and Further Education Commission Act 1990* provides that the TAFE Commission must not alienate, mortgage, charge or demise any of its land except with the approval of the Minister.

Schedule 1 [3] provides that if the TAFE Commission proposes to alienate, mortgage, charge or demise any of its land as part of the closure of a TAFE establishment, or any part of a TAFE establishment, the Minister must not give his or her approval unless the procedure set out in proposed Part 3A has been completed in relation to that closure or partial closure.

Schedule 1 [4] provides that the TAFE Commission must not lease land in connection with the closure of a TAFE establishment, or part of a TAFE establishment, except with the approval of the Minister (which, as discussed above, cannot be given unless the procedure set out in proposed Part 3A has been completed in relation to that closure or partial closure).

Section 27 of the Act provides for the Minister to acquire land for the purposes of the Act or jointly for those purposes and purposes of or associated with technical and further education or recreation. Section 27 (5) (b) provides that the Minister may grant a lease or licence of, or sell or exchange, land that is no longer required for the purposes for which it was acquired.

Explanatory note

Schedule 1 [5] provides that the Minister may not grant a lease or licence of land, or sell or exchange land, under section 27 (5) (b) as part of the closure of a TAFE establishment, or any part of a TAFE establishment, unless the procedure set out in proposed Part 3A has been completed in relation to that closure or partial closure.

Transitional provision

Schedule 1 [6] applies the amendments made by the proposed Act to a closure that is underway.

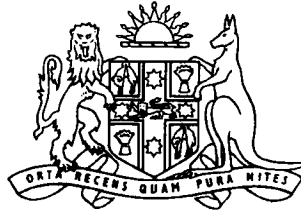


New South Wales

Technical and Further Education Commission Amendment (Consultation Procedures) Bill 2000

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Technical and Further Education Commission Amendment (Consultation Procedures) Bill 2000

No , 2000

A Bill for

An Act to amend the *Technical and Further Education Commission Act 1990* with respect to procedures for public consultation to be followed when closing a TAFE college.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Technical and Further Education Commission Amendment (Consultation Procedures) Act 2000</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	6
3 Amendment of Technical and Further Education Commission Act 1990 No 118	7 8
The <i>Technical and Further Education Commission Act 1990</i> is amended as set out in Schedule 1.	9 10

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 7 Miscellaneous functions	3
	Insert after section 7 (1) (a):	4
	(a1) close any TAFE establishment, but only in accordance with Part 3A (if that Part applies), and	5 6
[2]	Part 3A	7
	Insert after section 8:	8
	Part 3A Closure of TAFE establishments	9
	8A Closure of TAFE establishments must be in accordance with this Part	10 11
	(1) The TAFE Commission must not close any TAFE establishment except in accordance with this Part.	12 13
	(2) For the purposes of this Act, a TAFE establishment is closed when it ceases to provide technical and further education.	14 15
	8B Announcement regarding closure of TAFE establishments	16
	(1) The TAFE Commission is to announce, by 15 June in each year, the TAFE establishments (if any) that the TAFE Commission proposes to close. Any such TAFE establishments are not to be closed until the end of the following year.	17 18 19 20
	(2) That announcement must be made:	21
	(a) in at least one newspaper circulating generally throughout the State, and	22 23
	(b) in at least one local newspaper circulating generally in the area in which a TAFE establishment the subject of the announcement is located.	24 25 26

- (3) The TAFE Commission must also give written notice of a proposal to close a particular TAFE establishment to the Executive Officer and the relevant student representative body of the establishment concerned within 21 days after making an announcement under this section. 1
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- 8C TAFE Closure Review Committee** 6
- (1) The TAFE Commission must establish a TAFE Closure Review Committee within 21 days after making an announcement under section 8B concerning any proposal to close a TAFE establishment. 7
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- (2) A TAFE Closure Review Committee is to comprise: 11
- (a) an independent person appointed by the TAFE Commission, who is to chair the Committee, and 12
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 - (b) the Managing Director or a nominee of the Managing Director, and 14
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 - (c) a nominee of the Local Government Association of New South Wales, and 16
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 - (d) a nominee of a relevant student representative body for the TAFE establishment affected by the proposal, and 18
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 - (e) a nominee of the New South Wales Teachers Federation, and 20
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 - (f) a nominee of the TAFE Commission. 22
- (3) A separate TAFE Closure Review Committee is to be established in relation to each TAFE establishment that is proposed to be closed. 23
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- (4) The procedure of a TAFE Closure Review Committee is to be as determined by the Minister. 26
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- 8D Conduct of review of proposed closure** 28
- (1) A TAFE Closure Review Committee must review the proposal to close the TAFE establishment to which it relates. 29
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- (2) In conducting a review in relation to a TAFE establishment, the Committee: 31
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(a)	is to call for submissions and seek expert demographic and educational advice for both the present and future use of the TAFE establishment, and	1 2 3
(b)	is to seek and have regard to the views of local communities, teachers of the TAFE establishment and students attending the TAFE establishment, and	4 5 6
(c)	is required to meet with representatives of those local communities, teachers and students.	7 8
(3)	In making any recommendations concerning the closure of the TAFE establishment, the Committee is to have regard primarily to the educational needs of the local community concerned and of the State.	9 10 11 12
8E	Recommendations of TAFE Closure Review Committee	13
(1)	A TAFE Closure Review Committee is to make recommendations to the TAFE Commission concerning the closure of the TAFE establishment to which the Committee relates.	14 15 16 17
(2)	Such recommendations must be made by 30 September of the year in which the Committee is established.	18 19
(3)	If the TAFE Commission decides not to accept any recommendation of the Committee, the TAFE Commission is to make public within 21 days the reasons for its decision.	20 21 22
8F	Application of this Part	23
	The procedure set out in this Part does not apply to the closure of a TAFE establishment if:	24 25
(a)	the TAFE Commission Board is satisfied that there are exceptional or emergency circumstances that require an earlier closure of the TAFE establishment, or	26 27 28
(b)	a majority of the students attending a particular TAFE establishment have, either before or after the making of an announcement under this Part, expressed their consent to the closure by writing (either individually or collectively) to the Minister or the TAFE Commission.	29 30 31 32 33

[3] Section 23 Powers of the TAFE Commission relating to property	1
Insert after section 23 (2):	2
(2A) If the TAFE Commission proposes to alienate, mortgage, charge or demise any of its land to give effect to, or because of, the closure of a TAFE establishment, or any part of a TAFE establishment, the Minister may not give an approval referred to in subsection (2) unless any procedure required to be carried out under Part 3A (if applicable) has been completed in relation to that closure or partial closure.	3 4 5 6 7 8 9
[4] Section 23 (3)	10
Insert before 23 (3) (a):	11
(a1) the land is not being leased to give effect to, or because of, the closure of a TAFE establishment or of any part of a TAFE establishment, and	12 13 14
[5] Section 27 Acquisition and disposal of land by Minister	15
Insert after section 27 (5):	16
(5A) If the Minister proposes to grant a lease or licence of land or to sell or exchange land under subsection (5) (b), to give effect to, or because of, the closure of a TAFE establishment, or any part of a TAFE establishment, the Minister may not grant the lease or licence, or sell or exchange the land, unless any procedure required to be carried out under Part 3A (if applicable) has been completed in relation to that closure or partial closure.	17 18 19 20 21 22 23

[6] Schedule 4 Savings, transitional and other provisions	1
Insert after clause 10:	2
Part 4 Provisions consequent on enactment of amendments	3
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11 Provision consequent on enactment of Technical and Further Education Commission Amendment (Consultation Procedures) Act 2000	5
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(1) The amendments made by the amending Act extend to any proposed closure of a TAFE establishment that was under consideration immediately before the date of assent to the amending Act.	8
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(2) After the date of assent to the amending Act no TAFE establishment is to be closed otherwise than in accordance with the provisions of Part 3A.	12
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(3) The amendments made by the amending Act apply in respect of any such closure.	15
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(4) In this clause:	17
<i>amending Act</i> means the <i>Technical and Further Education Commission Amendment (Consultation Procedures) Act 2000</i> .	18
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