

Queensland



JAMES COOK UNIVERSITY OF NORTH QUEENSLAND ACT 1970

**Reprinted as in force on 12 May 1997
(includes amendments up to Act No. 65 of 1996)**

Warning—see last endnote for uncommenced amendments

Reprint No. 1A

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Information about this reprint

This Act is reprinted as at 12 May 1997. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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**JAMES COOK UNIVERSITY OF NORTH
QUEENSLAND ACT 1970**

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JAMES COOK UNIVERSITY OF NORTH QUEENSLAND ACT 1970

[as amended by all amendments that commenced on or before 12 May 1997]

**An Act to provide for the establishment and incorporation of a
university at Townsville, and for purposes connected therewith**

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *James Cook University of North Queensland Act 1970*.

Interpretation

3. In this Act—

“**company**” includes, for the purposes of sections 4(2)(da), 38A, 38C and 38D, a corporation within the meaning of the Companies (Queensland) Code, an association or a partnership.

“**convocation**” means the convocation of the university constituted under this Act.

“**council**” means the council of the university constituted under this Act.

“**permanent academic staff**” means the members of the teaching and research staff of the university under an appointment which by the terms thereof may without renewal continue for a period of not less than 3 years whose status is equivalent to that of senior tutor or above.

“**permanent non-academic staff**” means the members of staff of the university, other than the members of the permanent academic staff,

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under an appointment which by the terms thereof may, without renewal, continue until the age of 60 years at least.

“**rules**” means the rules made by the council under a statute.

“**statutes**” means the statutes of the university made under this Act.

“**union**” means the James Cook University of North Queensland Union constituted under this Act.

“**university**” means the James Cook University of North Queensland, established and incorporated by this Act.

“**vehicle**” means a vehicle within the meaning of the *Traffic Act 1949*.

PART 2—CONSTITUTION AND GOVERNMENT OF THE UNIVERSITY

Division 1—The university

Establishment and incorporation of university

4.(1) A university to be known as the James Cook University of North Queensland consisting of a council, convocation, members of the teaching and research staff and the enrolled students of the university, is hereby established at Townsville.

(2) The university shall be a body corporate under the name of the ‘James Cook University of North Queensland’ and by that name shall have perpetual succession, a common seal and be capable by that name of—

- (a) suing and being sued; and
- (b) compounding or proving in any court of competent jurisdiction all debts or sums of money due to it; and
- (c) taking, acquiring by grant, purchasing, taking on lease, property (whether situated in Queensland or elsewhere); and
- (d) granting, selling, alienating, leasing, assigning, transferring and

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surrendering to the Crown, property (whether situated in Queensland or elsewhere); and

- (da) causing the formation of companies, and becoming a member of or managing any company or companies for any purpose which may seem directly or indirectly calculated to further the objects, functions or powers of the university or to benefit the university in any way whatsoever; and
- (e) doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

Division 2—The council

The council

5.(1) There shall be a council of the university which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon the council by or under this Act.

(2) The governing authority of the university shall be the council.

Constitution of council

7.(1) Subject to subsection (3) and section 10, the council shall consist of—

- (a) the vice-chancellor of the university who shall be ex officio a member;
- (b) the director-general of Education, or the director-general's nominee, who shall be ex officio a member;
- (c) the chairperson of the academic board of the university constituted under the statutes who shall be ex officio a member;
- (d) 4 members who are members of the permanent academic staff, and of whom at least 1 is a person whose primary responsibility is in the teaching of courses in advanced education, appointed by that staff;
- (e) 1 member who is a member of the staff association of the

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university appointed by the association;

- (ea) 2 members who are members of the permanent non-academic staff appointed by that staff;
- (f) 2 members each of whom is a graduate, or an enrolled student, of the university appointed by the council of the union;
- (fa) 1 member who is a student enrolled in a course in advanced education appointed by the council of the union;
- (g) 11 members appointed by the Governor in Council, of whom at least 5 shall have a principal interest in advanced education;
- (h) 7 members appointed or elected, in the manner prescribed by the statutes, by convocation but so that there shall not at any one time be included in the number of persons so appointed or elected—
 - (i) more than 1 person whose sole or principal employment is in connection with the person's duties as a member of the teaching or research staff of the university; or
 - (ii) more than 2 persons whose sole or principal employment in each case is in connection with the person's duties as a member of the teaching staff of a secondary school, technical college, institute of technology or similar educational institution; or
 - (iii) more than 1 person who is a member of convocation by virtue of being a past member of the council of the Townsville College of Advanced Education or a graduate of that college.

(2) The council constituted under subsection (1) is to assume office on a day fixed by proclamation.

(3) The council as constituted for the time being may from time to time appoint a person or persons to be a member or, as the case may be, members of the council but so that—

- (a) the number of persons so appointed shall not at any one time exceed 3;
- (b) the term of office of a member appointed in pursuance of this subsection shall, subject to this Act, expire on the same day as the

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term of those appointed members appointed for the purposes of subsection (1) who are in office at the date of his or her appointment expires;

- (c) a person whose sole or principal employment is in connection with the person's duties as a member of the teaching or research staff of the university shall not be appointed a member of the council under this subsection.

(4) A member of the council other than an ex officio member is in this Act referred to as an **“appointed member”**.

(5) The appointed members of the council shall, subject to this Act, hold office for a period not exceeding 3 years as the statutes may prescribe.

(6) Subject to section 10(4), in the event of a casual vacancy in the office of an appointed member of the council a member shall be appointed or elected—

- (a) in such cases and in such circumstances as are specified in the statutes—in such manner as is prescribed by the statutes; or
- (b) where no cases or circumstances are so specified—in the same manner as that in which the member whose office is vacant was appointed or elected;

and the person so appointed or elected shall hold office for the residue of his or her predecessor's term of office.

(7) If a body permitted or required by this section to appoint or elect a person or number of persons to be a member or members of the council fails or refuses to appoint or elect a sufficient number of such persons by a date determined by the council, the Minister may appoint a sufficient number of persons who shall be deemed to have been appointed or elected by the body who could or should have appointed or elected him, her or them.

(8) If—

- (a) an appointed member of the council is or may be prevented by absence, illness or other cause whatsoever, from performing duties as a member of the council; and
- (b) the person who, or the executive or other group or person charged

with the management of the affairs of the body which, appointed or elected such member is or are of opinion that the member will be so prevented from performing those duties during the period during which 2 ordinary meetings of the council may be held;

that person, executive or other group, as the case may be, may appoint some other eligible person to act as a member of the council in place of the member during such time as the member is prevented from performing those duties, and the person appointed whilst so acting shall have and may exercise all the powers, functions and authorities of, and may perform all the duties of, a member of the council.

Disqualifications from office

8.(1) A person who—

- (a) is not of the full age of 18 years; or
- (b) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
- (c) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission which if done or made by the person in Queensland would have constituted an indictable offence unless the council is of the opinion that the circumstances of the offence do not warrant disqualification from office;

shall not be capable of being or continuing to be, a member of the council.

(2) A person who ceases to hold the office or qualification essential to the person's appointment or election as a member of the council in terms of section 7(1)(d), (e), (ea), (f), (fa) or (g) is not capable of continuing to be a member of the council in terms of the relevant paragraph.

Vacation of office

9. An appointed member shall be deemed to have vacated office as an appointed member if the member—

- (a) dies; or

- (b) is absent, without leave granted by the council, from every meeting of the council, of which due notice has been given to the member, in any period of 6 months; or
- (c) resigns office by signed notice delivered to the registrar; or
- (d) becomes an ex officio member.

Appointment of chancellor

10.(1) The council at its first meeting after the day appointed under section 7(2), and thereafter whenever a vacancy occurs, shall elect a chancellor of the university who shall hold office for such period (not exceeding 5 years) and on such conditions as are provided by the statutes.

(2) The chancellor may be elected from amongst the members of the council or otherwise.

(3) The chancellor shall be ex officio a member of the council.

(4) When the person elected as chancellor is already an appointed member of the council at the time of the person's election, the office that the person held as such a member shall be declared vacant, and thereupon the appropriate steps shall be taken pursuant to section 7(6) by the person or body concerned to fill the vacancy for the unexpired portion of the term for which the person was appointed as an appointed member unless in a case where that unexpired portion is less than 6 months the council by resolution determines that the position be not filled.

Election of deputy chancellor

11.(1) The council shall at its first meeting after the day appointed under section 7(2), and thereafter annually elect one of its number to be deputy chancellor of the university.

(2) The deputy chancellor shall hold office for 1 year from the date of the deputy chancellor's election or until the election, pursuant to subsection (1), of another deputy chancellor whichever first happens and on such conditions as are prescribed by the statutes.

(3) In the absence of the chancellor or during a vacancy in the office of

chancellor or during the inability of the chancellor to act, the deputy chancellor shall have all the powers and duties of the chancellor.

Chair of council

12.(1) The chancellor shall preside at all meetings of the council at which the chancellor is present.

(2) At any meeting of the council at which the chancellor is not present—

(a) the deputy chancellor; or

(b) where the deputy chancellor is not present—a member of the council elected by and from the members present;

shall preside.

Appointment of vice-chancellor

13.(2) Whenever a vacancy occurs in the office of vice-chancellor, the council shall appoint a person (whether a member of the council or not) to be vice-chancellor.

(3) The vice-chancellor shall be appointed for such period and on such conditions as the council determines.

(5) The vice-chancellor shall be the chief executive officer of the university and shall possess such powers and perform such duties as the statutes prescribe or, subject to the statutes, as the council determines.

Re-election or reappointment

14. Nothing contained in this Act shall prevent any person from being immediately, or at any time, reappointed or re-elected to any office or place under this Act if the person is otherwise capable for the time being of holding that office or place.

Validity of proceedings

15. No proceedings of the council, or of any committee thereof, and no act done by the chancellor, deputy chancellor or any person acting pursuant

to and in accordance with the statutes as chancellor shall be invalidated by reason of—

- (a) any defect in the appointment or election of, or of any disqualification of, any member of the council or any such person; or
- (b) any defect in the convening or conduct of any meeting of the council or any committee thereof; or
- (c) there being any vacancy in the number of members of the council or any committee thereof; or
- (d) the fact that a person purporting to be a member of the council or any committee thereof by virtue of an office held by the person did not hold that office; or
- (e) the fact that a person purporting to be a member of the council or any committee thereof was not such a member.

Powers of council

16. Subject to this Act and the statutes, the council—

- (a) shall have full power and authority from time to time to appoint and dismiss all deans, professors, readers, lecturers, examiners and other officers and servants of the university; and
- (b) subject to paragraph (c) shall have the entire management and control of the affairs, concerns, and property of the university and may act in all matters concerning the university in such manner as appears to it best calculated to promote the interests and purposes of the university; and
- (c) shall have the entire management and control of the finances of the university and in particular—
 - (i) shall, in each year, adopt for the next following year commencing on 1 January a budget for all funds of the university other than those to which subparagraph (ii) relates and shall approve all amendments to the budget and shall control the expenditure of the university so that it conforms as nearly as practicable to the approved budget;

- (ii) shall review annually funds available to the university by way of bequest, donation or special grant and the expenditure thereof and shall, subject to the terms of any trust and before any such expenditure is made, approve the proposed disposition of those funds.

Superannuation schemes

16A.(1) The council may—

- (a) establish or amend superannuation schemes; or
- (b) join in establishing or amending superannuation schemes; or
- (c) take part in superannuation schemes.

(2) The auditor-general may audit the schemes.

(3) Subsection (2) is subject to the *Financial Administration and Audit Act 1977*, part 6.¹

Delegation by council

17.(1) The council may, in relation to any matter or class of matters, or in relation to any activity or function of the university, by resolution, delegate all or any of its powers and authorities, duties and functions under this Act (except this power of delegation and its powers in relation to the making of statutes or rules and its duties in relation to the annual adoption of a budget and the approval of the proposed distribution of funds referred to in section 16(c)(ii)) to any member or to any committee of its members, or to any officer or officers of the university.

(2) Every delegation under this section may be varied or revoked by resolution of the council, and no delegation shall prevent the exercise of any power, authority, duty or function by the council.

(3) A power, authority, duty or function delegated by the council may be exercised or performed by the delegate—

- (a) in accordance with the resolution of delegation; and

¹ Part 6 (Audit of public accounts and public sector entities)

- (b) if the exercise of the power or authority or the performance of the duty or function is dependent upon the opinion, belief or state of mind of the council in relation to a matter—upon the opinion, belief or state of mind of the delegate in relation to that matter.

Division 3—Convocation

Constitution of convocation

18.(1) There shall be a convocation of the university consisting of—

- (a) all members and past members of the council, and all past members of the council of the Townsville College of Advanced Education; and
- (b) all past members of the advisory council of the University College of Townsville; and
- (c) all graduates of the university enrolled as members of convocation in the register of graduates in accordance with the provisions of the statute relating to such register, and all graduates of the Townsville College of Advanced Education; and
- (d) all permanent academic staff of the university and such other members of the staff of the university as the statutes may prescribe; and
- (e) such graduates of other universities, or other persons, as are, in accordance with the statutes, admitted as members of convocation; and
- (f) without prejudice to the generality of paragraph (e), graduates of the University of Queensland who, while undergraduates, spent at least 3 years as properly enrolled students of the University College of Townsville.

(2) Meetings of convocation shall be convened and the business at such meetings shall be conducted in the manner prescribed by the statutes.

(3) A quorum of any meeting of convocation shall be such number of members as the statutes prescribe.

(4) Convocation shall have and may exercise such powers, authorities, duties and functions as may be prescribed by the statutes.

Division 4—The union

The James Cook University of North Queensland

19.(1) There shall be a James Cook University of North Queensland union.

(2) As from such date as the Governor in Council may appoint in that behalf and notify by proclamation published in the gazette, the union shall be a body corporate under the name of the ‘James Cook University of North Queensland Union’ and by that name shall have perpetual succession and a common seal and be capable of suing and being sued.

(3) The union shall have such other powers and authorities and be subject to such obligations as shall have been or shall from time to time be prescribed by or under the statutes.

(4) Except in the case of emergency (of which the council shall be sole judge) the council shall submit to the union a draft of any proposed statute affecting the powers, authorities or obligations of the union and shall consider any representations the union may make thereon.

The constitution of the union

20. The constitution of the union and all amendments thereto or alterations or modifications thereof shall be submitted to the council through the registrar and shall have no force or effect unless and until approved by the council.

Composition and recognition of the union

21.(1) All students of the university and such other persons as shall be defined by its constitution shall be eligible for membership of the union.

(2) The union shall be an organised association of such students and other members for the furthering of the objects of the union as defined by

its constitution.

(3) It is not the intention of this part that the union shall be, or shall be regarded as, for any purpose the servant or agent of the council or the university.

PART 3—FUNCTIONS OF UNIVERSITY ETC.

Functions of the university

23. The functions of the university shall, within the limits of its resources, include the following—

- (a) to encourage and provide facilities for study and research both generally and in relation to subjects of special importance to the tropics;
- (b) to provide educational facilities at university standards for persons who being eligible to enrol seek the benefits of such facilities;
- (c) to establish such facilities as the university deems desirable for providing courses of study or instruction at such levels of attainment as the council deems proper to meet the special needs of the community, and in particular those levels of attainment that were the responsibility of the council of the Townsville College of Advanced Education prior to 1 January 1982;
- (d) subject to the statutes, to award and confer degrees and diplomas;
- (e) to exploit commercially, for the benefit of the university, any facility or resource of the university including any study, research or knowledge, or the practical application thereof, developed by or belonging, whether alone or in conjunction with any other person or body, to the university.

Faculties, schools, institutes and departments

24. The council may, for the purpose of discharging the functions of the

university, establish such faculties, schools, institutes and departments as it sees fit.

Concession to persons training for teaching positions

25.(1) The council shall allow the attendance without payment at the courses of instruction for degrees and diplomas by any person who is training for the position of a teacher and who—

- (a) is one of a class of such persons approved by the Governor in Council or is otherwise approved by the Governor in Council; and
- (b) has previously fulfilled the entrance requirements prescribed by the council in relation to the course of instruction to be undertaken by the person.

(2) The Governor in Council may define a class of persons approved by the Governor in Council for the purposes of this section in such manner as the Governor in Council thinks fit.

PART 4—ESTABLISHMENT OF COLLEGES

Establishment of university colleges

26.(1) The Governor in Council on the recommendation of the council, may from time to time by order in council establish colleges or other university institutions (a “college”).

(2) The Governor in Council may in the order in council establishing a college or by another order in council—

- (a) assign to the college such name or title as the Governor in Council thinks appropriate;
- (b) declare at what place the college shall be situated;
- (c) specify the provisions applicable to and in relation to the college which provisions shall be binding upon all persons in relation to

that college and which may include—

- (i) the powers, authorities, duties and functions which the council may exercise and perform in respect of the college; and
- (ii) the general arrangements for the local management, supervision, and control of the college including if necessary the constitution of an advisory council in respect thereof and the membership of such council; and
- (iii) the financial arrangements for or in respect of the establishment or maintenance of or both the establishment and maintenance of, the college; and
- (iv) generally such other matters or things that may be necessary or desirable in order to carry out in respect of the college the purposes of this part.

(3) The power to make an order in council under this section shall include power to make (with respect to all or any of the matters specified in this subsection) such and so many orders in council, either at the same time or from time to time, as the Governor in Council shall deem necessary or expedient in the circumstances.

A college to be part of university

27.(1) A college shall be, and shall function as, part of the James Cook University of North Queensland.

(2) Subject as otherwise may be provided by order in council made under section 26 or by statute, the council may exercise in relation to a college all the powers conferred on the council by this Act or the statutes in relation to the university and shall have the entire management of and superintendence over the affairs and concerns of the college and of any property held by the university upon trust for the purpose of the college, and in all cases unprovided for by this Act the council may in relation to the college and to any such property act in such manner as appears to it best calculated to promote the interests or purposes of the college.

(3) Subsection (2) shall be construed as being in aid of and not in derogation of subsection (1).

Powers and functions of advisory council

28. An advisory council constituted for a college may, subject to this Act—

- (a) exercise and perform such powers, authorities, duties and functions as may be prescribed by statute; and
- (b) exercise and perform such of the powers, authorities, duties, and functions conferred or imposed on the council by section 27 as are delegated from time to time to the advisory council by the council.

Gifts, devises etc. of property to or for a college

29.(1) The university shall have power to acquire by gift, devise or bequest any property upon trust to apply the same or the proceeds thereof or the income therefrom for the benefit of a college.

(2) Any gift, devise, or bequest of any property made or purporting to be made to a college shall be deemed to be a gift, devise, or bequest, as the case may be, to the university upon trust to apply the same for the purposes of the college in accordance with the terms of the gift, devise, or bequest; and where there has been a gift, devise, or bequest to trustees upon trust for a college, any act which might have been performed by the college if it had been an independent corporate body may be performed by the university, and any such act by the university shall have the same validity and effect in law as it would have had if the college had been an independent corporate body and had performed the act.

(3) If before the establishment of a college under this part any property had been vested in or acquired by any person upon trust for the purposes for which the college is established such person may after the college is established and notwithstanding anything contained in the terms of the trust convey or transfer the property to the university upon trust to apply the same or the proceeds thereof or the income therefrom for the benefit of the college, and the acceptance of the property by the university shall be a complete discharge to such person.

PART 5—PROPERTY AND FINANCE

Variation of terms of trusts and gifts

30.(1) Where any property is held by the university either at the date of the commencement of this Act or at any time thereafter on terms requiring such property or the income therefrom to be applied for a purpose or purposes and—

- (a) such purpose or all or any of such purposes has or have been effected; or
- (b) such purpose or all or any of such purposes has or have ceased to exist; or
- (c) such purpose or all or any of such purposes has or have been adequately provided for by other means; or
- (d) such purpose is or all or any of such purposes are uncertain or cannot be identified or is or are not sufficiently defined; or
- (e) it becomes impossible or impracticable or inexpedient to carry out the purpose or all or any of such purposes; or
- (f) the property or income derived therefrom proves inadequate to carry out such purpose or all or any of such purposes;

then subject to the provisions of this section the council may cause to be prepared a scheme by which that property or any part or residue thereof shall be held on terms requiring such property, part or residue or the income therefrom to be applied for the purpose or purposes designated in the scheme.

(2) A scheme prepared pursuant to subsection (1) shall be submitted by the council to the Governor in Council.

(3) Upon receipt of a scheme pursuant to subsection (2), the Governor in Council may—

- (a) approve the scheme; or
- (b) approve the scheme with such modifications as the Governor in Council thinks fit; or
- (c) refuse to approve the scheme.

(4) A scheme approved by the Governor in Council (with or without modifications) under subsection (3) is, in this section and sections 31 and 32, in relation to the property or part or residue thereof concerned, called the “**approved scheme**” and shall be published in the gazette.

(5) Where in relation to any property or part or residue thereof held by the university there is in existence for the time being, an approved scheme, such property, part or residue thereof shall in accordance with the approved scheme be diverted from the purpose or purposes for which it was held and shall be held for the purpose or purposes as designated in the approved scheme.

Amendment of approved scheme

31.(1) If the council desires from time to time to amend an approved scheme it shall submit its amendment or amendments to the Governor in Council.

(2) Upon receipt of the amendment or amendments of an approved scheme pursuant to subsection (1), the Governor in Council may—

- (a) approve the amendment or amendments; or
- (b) approve the amendment or amendments with such modifications as the Governor in Council thinks fit; or
- (c) refuse to approve the amendment or amendments.

(3) An amendment or amendments to an approved scheme approved by the Governor in Council under subsection (2) shall be published in the gazette and thereupon the approved scheme in relation to which such amendment has or amendments have been approved shall be amended in accordance with the approval and as so amended shall be the approved scheme for the time being in relation to the property, part or residue the subject of such scheme.

Provisions relating to approved schemes

32.(1) Where property the subject of an approved scheme consists (wholly or in part) of land, the university shall within 14 days after the publication in the gazette of the approved scheme and within 14 days after

the publication in the gazette of every amendment thereof, notify the authority charged in law with the registration of dealings relating to the said land of the approved scheme or, as the case may be, amendment.

(2) In selecting a purpose for an approved scheme or for any amendment of an approved scheme the council shall have a preference for a purpose which, in its opinion, is as nearly similar to the purpose or purposes for which the property concerned is, for the time being, held by the university as is consistent with useful and convenient achievement but an approved scheme or an approved amendment to such a scheme shall not be invalidated or otherwise prejudiced by reason of the fact that another purpose may have more properly been selected by the council in accordance with this subsection.

(3) Upon its publication in the gazette judicial notice shall be taken of an approved scheme and of any amendment thereof.

(4) The powers conferred by this section and sections 30 and 31 are in addition to any other powers or rights exercisable in law in respect of property held by the university upon trust.

University may accept gifts etc. subject to conditions, and establish trust funds

33. In exercising its power to take, acquire by grant, purchase or take on lease any property the university may agree to and carry out any conditions of any gift, grant, bequest, devise or other means whereby it takes or acquires any property or of any such purchase or lease and the council may create or administer, or create and administer any trust fund or funds in connection therewith or for any other purpose whatsoever.

Powers of investment

34.(1) The council may establish 1 or more investment common funds for the collective investment of any trust and other moneys held by or in the custody of the university.

(2) The council may from time to time without liability for breach of trust bring into or withdraw from any such investment common fund the whole or any part of any moneys of the university or of any trust moneys

or any other moneys held by or in the custody of the university.

(3) Subject to subsections (4) and (5) the council shall periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) In any case where the council has brought into any investment common fund, moneys which, having been received by it to be expended for a stated purpose, cannot or will not be expended for that purpose forthwith, there may be paid into the general funds of the university the whole or any part of that part of the income of such investment common fund which is attributable to the participation of those moneys in that fund and which is not required for that stated purpose.

(5) The council may if it considers it expedient so to do from time to time add some portion of the income to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(6) Any moneys of the university (whether forming part of a common fund or not), including moneys held upon trust or subject to a condition, may be invested by the council from time to time in any form of investment authorised by statute whether an authorised trustee investment or not.

(7) The powers conferred on the council by this section or by any statute relating to investment of property shall not be exercised by the council in relation to any trust fund or other moneys—

- (a) if the instrument creating the trust expressly directs to the contrary; or
- (b) if the exercise of the power would constitute a breach of any condition under which the fund or moneys in question were acquired.

Endowment

35. There shall be paid to the council each year out of the consolidated fund of the State such sums as are appropriated by Parliament for the purpose.

Application of revenue by university

36.(1) All fees and all other moneys received by the council under this Act or otherwise shall subject to this part of this Act and to the terms of any applicable trust be applied by the council solely for the purposes of the university.

(2) For the purposes of subsection (1), the application of moneys from time to time by the council for the purpose of—

- (a) enabling a member or former member of the university to pursue study or research at the university or elsewhere than at the university; or
- (b) the advancement of learning generally; or
- (c) assisting any institution declared by statute to be affiliated or associated with the university;

is an application of those moneys for the purposes of the university.

Financial accommodation

37.(1) For the purpose of providing financial accommodation for enabling the university to perform and exercise its functions and all powers that are incidental in or necessary or conducive to the proper performance of its functions, the council, in the name of and on behalf of the university, may and is hereby authorised, with the prior approval of the Governor in Council, to obtain from time to time advances—

- (a) by way of loan from the Treasurer; or
- (b) by way of loan or overdraft from any bank; or
- (c) by way of loan from any other person, upon, at and subject to such security, rate of interest and other terms and conditions as the council, subject to the approval of the Governor in Council, thinks fit.

(2) Before entering into negotiations with respect to the obtaining of any advance by way of loan or overdraft from any bank or other person the council shall obtain the sanction of the Treasurer authorising it to enter into such negotiations and for the purpose of obtaining that sanction the council shall submit to the Treasurer such information as the Treasurer may require.

(5) The university is a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982*.

Accounts and audit

38.(1) The council shall cause to be kept in relation to the funds and assets of the university such accounting and associated records as shall correctly record and explain all transactions.

(2) The council shall, as soon as practicable after each 31 December, prepare and transmit to the Minister statements of accounts in respect of the year ended on that date in the form approved by the auditor-general.

(2A) Prior to such transmission the auditor-general shall certify whether or not the statements of accounts submitted exhibit a true and fair view of the financial transactions of the university for the period to which they relate.

(3) The auditor-general or an officer authorised by the auditor-general shall audit the accounts and records of financial transactions of the university and the cost of this audit shall be met by the university.

(4) The auditor-general shall at least once in each year report to the council the results of the audit carried out under subsection (3) and, if the auditor-general deems necessary, shall make recommendations to the council in regard to the conduct of the financial transactions of the university and the manner of operating and maintaining the accounts.

(5) The council shall give due consideration to the report and recommendations (if any) of the auditor-general made in accordance with subsection (4).

(6) The auditor-general or an officer authorised by the auditor-general shall have a right of access at all reasonable times to the accounting and associated records of the university and shall be entitled to require from an officer or employee of the university such information and explanation as the auditor-general considers necessary for the purpose of the audit and the person shall comply with the requirement.

(7) The auditor-general shall transmit to the Minister through the Treasurer a copy of any report and recommendations made by the auditor-general under subsection (4) and shall include in the

auditor-general's annual report to Parliament such matters relating to the financial transactions for the year as the auditor-general may consider necessary.

PART 5A—PROVISIONS RELATING TO COMPANIES, JOINT AGREEMENTS AND ARRANGEMENTS, AGREEMENTS FOR USE OF FACILITIES AND STAFF

Formation of and participation in companies etc.

38A.(1) The university, in the performance of its functions under this Act and without limiting the provisions of section 4(2)(da), may be a member of, or form or participate in the formation of, or manage a company, whether incorporated, established or entered into within or outside the State, the objects or purposes of which include 1 or more of the following objects or purposes—

- (a) providing facilities or services for study, research or education;
- (b) undertaking research, development, consultancy or other services for commercial organisations, public bodies or individuals;
- (c) aiding or engaging in the development or promotion of university research or the application or use of the results of such research;
- (d) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audiovisual material or computer software;
- (e) exploiting commercially any facility or resource of the university including any study, research or knowledge, or the practical application thereof, developed by or belonging, whether alone or in conjunction with any other person or body, to the university;
- (f) seeking or encouraging gifts to the university or for university purposes;
- (g) any other object or purpose not inconsistent with this Act which

the council considers to be appropriate in the circumstances.

(2) The university, or any company of which the university is a member, or which is formed, participated in or managed by the university, may enter into any agreement or arrangement with any company the objects of which include 1 or more of the objects and purposes specified in subsection (1)(a) to (g), in respect of any of those lastmentioned objects and purposes.

Use of facilities and staff

38B. The university, in such circumstances and subject to such terms and conditions as the council thinks fit, may contract or otherwise enter into an arrangement with any person or body for the use by him, her or it of the university's facilities and staff.

Companies to furnish returns etc.

38C. Any company—

- (a) formed by the university pursuant to section 38A; or
- (b) managed by the university; or
- (c) of which the university becomes a member;

shall furnish the council with such reports, returns and information relative to the company's affairs as are from time to time required by the council.

Audit requirements

38D. The *Financial Administration and Audit Act 1977*, section 46I applies, to the extent provided by that section, to any company associated with the university pursuant to section 38C.

PART 6—STATUTES AND REGULATIONS

Statutes

39.(1) The council may from time to time make statutes not inconsistent with this Act with respect to all or any of the following matters, that is to say—

- (a) the use and custody of the common seal;
- (b) the method of appointment or election of members of the council by convocation or of members expressed by this Act to be appointed by staff of the university;
- (c) the manner and time of convening, holding, and adjourning the meetings of the council and of convocation;
- (d) the quorum of and voting at such meetings;
- (e) the powers and duties of the person acting as chairperson thereof;
- (f) the chair of convocation; the conduct and record of the business;
- (g) the establishment and appointment of committees of the council and of convocation, and the quorum, powers, and duties of such committees;
- (h) the resignation of members of the council, the chancellor and the deputy chancellor;
- (i) the appointment of a person to act for the deputy chancellor during the illness or absence of such officer;
- (j) the number, appointment, termination of appointment, discipline (including the dismissal, suspension, and imposition of disciplinary punishments other than dismissal or suspension), and, subject to applicable awards or industrial agreements, the stipends or salaries or wages of professors, readers, lecturers, examiners, and other officers and servants of the university;
- (k) the matriculation of students;
- (l) the granting of degrees, diplomas, certificates and honours;
- (m) the granting of fellowships, scholarships, exhibitions, bursaries,

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and prizes;

- (n) the admission of students of other universities to any corresponding status or of graduates of other universities to any corresponding degrees or diplomas without examination;
- (o) the admission of persons who were, immediately before the commencement of this Act, students of the University College of Townsville to any corresponding status without examination;
- (p) the admission of members to convocation;
- (q) the fees to be paid for examinations, for the granting of degrees, diplomas, and certificates, for attendance at the lectures and classes of the university, and for the use of university facilities;
- (r) the imposition and collection in respect of each year of a higher education administration charge in accordance with the *States Grants (Tertiary Education Assistance) Act 1984* (Cwlth) or any Act passed in substitution for that Act;
- (s) the collection in respect of any fee, charge or other imposition arising from any higher education contribution scheme as provided for under any Act passed by the Commonwealth in respect thereof;
- (t) the establishment, management, and control of libraries and museums in connection with the university;
- (u) the affiliation, association, or connection with the university of any educational establishment wheresoever situated, to which the governing body of such educational establishment may consent;
- (v) the development, promotion and marketing of inventions and the acquisition, control and disposal of patents and patent rights, by the university or by a person on behalf of the university;
- (w) the ownership and exploitation of inventions and discoveries, that are the property of the university, made by the staff or enrolled students of the university;
- (x) the control and investment of the property of the university, including property held upon trust or subject to a condition;
- (y) the protection of the property of, or under the control of, the

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university from trespass or damage or misuse;

- (z) the regulation and control of access to and the use of land and buildings the property of, or under the control of, the university and of the conduct of persons and the presence and use of vehicles thereon;
- (za) the James Cook University of North Queensland Union—the powers, authorities, and obligations of the union;
- (zb) for the carrying into effect of the several provisions, objects and purposes of the Act and generally for the control, management, good government and discipline of the university.

(1A) Without limiting the generality of the powers conferred by subsection (1) a statute made pursuant to that subsection—

- (a) may provide, in the case of an offence that consists of—
 - (i) bringing a vehicle onto or parking or standing a vehicle on a site in breach of a statute;
 - (ii) driving a vehicle on any part of a site in breach of a statute;
 - (iii) driving a vehicle on any part of a site at a speed in excess of a speed that, in relation to that part, is prescribed by statute, determined by a method prescribed by statute or fixed by a person authorised by statute so to do in respect of the site or that part;
 - (iv) driving a vehicle on any part of a site contrary to any direction, whether given by a person authorised by statute so to do or by a traffic control device on the site;
 - (v) doing on a site with or in respect of a vehicle such other act as may be prescribed by order in council for the purposes of this section;

that the owner of the vehicle (whether or not the owner was in charge of the vehicle at the material time) shall be liable to be punished for the offence as well as the person who was in charge of the vehicle at the material time;

- (b) may define who is the owner of a vehicle for the purposes of the statutes;

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- (c) may provide for the removal or disposal of any vehicle—
 - (i) parked or left standing on a site in such a position as to obstruct, interfere with or cause danger to other vehicles on the site or to users of the site; or
 - (ii) apparently abandoned on a site;
- (d) may prescribe the proof that is necessary or sufficient to establish any matter relevant to an offence created by statute.

(1B) A statute that provides as is referred to in subsection(1A)(a) shall not be so construed that the owner of a vehicle and the person in charge of it at the time an offence was committed with or in respect of the vehicle shall both be punished for the one offence.

(1C) In subsection (1A)—

“**site**” means any land or premises the property of or under the control of the university.

(2) The council may by statute repeal, rescind, revoke, alter, vary, amend or otherwise modify any statute or part of a statute.

(3) A statute may authorise the council to make rules for the carrying into effect of all or any of the provisions and objects of the statute.

(4) All rules made pursuant to any statute by the council shall be of full force and effect as from the day on which they are promulgated in accordance with the statute under which they are made or from such later date as may be specified in the rule, and the production of a verified copy of any such rule under the common seal of the university is sufficient evidence of the making and authenticity of the same in all courts and before all persons acting judicially.

(5) A statute may impose or authorise the council or any officer of the university to impose a penalty not exceeding 5 penalty units for breach of any provision and provide for the recovery and enforcement of any such penalty.

(6) Where no other provision is made for the recovery or enforcement of a penalty imposed by or under the authority of a statute, such penalty may be recovered or enforced by complaint in a summary way under the *Justices Act 1886*.

Statutes to be approved by Governor in Council

40.(1) Every statute made by the council shall be sealed with the common seal of the university, and shall be transmitted to the Minister to be dealt with in accordance with this section.

(2) The Minister shall submit every statute to the Governor in Council.

(3) The Governor in Council may in the Governor in Council's discretion approve any statute.

(4) A statute shall have no force and effect unless and until approved by the Governor in Council.

Regulations

41.(1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, providing for all matters, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

(2) The statutes made pursuant to this Act shall be read subject to the regulations made under this Act to the extent that where there is an inconsistency between a statute and a regulation the latter shall prevail.

Publication of proclamations, orders in council, regulations and statutes

42.(1) Every proclamation, order in council and regulation made under this Act and every statute approved by the Governor in Council under this Act shall—

- (a)** be published in the gazette; and
- (b)** upon its publication in the gazette—be judicially noticed and such publication shall be conclusive evidence of the matters contained therein; and
- (c)** take effect from the date of such publication unless, in the case of any such order in council, regulation or statute, a later date is specified in that or any other such order in council, regulation or

statute for its commencement when in such event it shall take effect from that later date; and

- (d) be laid before the Legislative Assembly within 14 sitting days after such publication, if the Legislative Assembly is in session, and if not, then with 14 sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time with 14 sitting days after any such order in council, regulation or statute has been laid before it disallowing the same or part thereof, that order in council, regulation, statute or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further order in council, regulation or statute.

PART 7—MISCELLANEOUS

No religious, political or racial test

43. No religious test shall be administered to any person in order to entitle the person to be admitted as a student of the university, or to hold office therein, or to graduate thereat, or to enjoy any benefit, advantage, or privilege thereof, and no person shall be denied admission as a student of the university or be ineligible to hold office therein or to graduate thereat or to enjoy any benefit, advantage, or privilege thereof by reason of the person's sex, race or political views or beliefs.

Council to report annually

44.(1) The council shall as soon as practicable after each 31 December prepare and transmit to the Governor in Council a report of the proceedings of the university during the year ended on that date.

(2) The report shall include a summary of the work, researches and investigations carried out by the university during the period covered by the report.

(3) The report shall contain a copy of the statement of accounts transmitted to the Minister pursuant to section 38.

(4) A copy of every such report shall be laid before the Legislative Assembly as soon as practicable after it has been received by the Minister.

PART 8—PROVISIONS RELATING TO THE UNIVERSITY COLLEGE OF TOWNSVILLE

Provisions relating the University College of Townsville

45.(1) Upon the commencement of this Act, the University College of Townsville shall cease to exist.

(2) Where by any testamentary disposition or otherwise property would pass to or for the benefit of the University College of Townsville if that institution were still in existence, such property shall pass to or for the benefit of the university and shall vest in the university or any trustees for it, as the case may be, but without prejudice to any other lawful claim of any person in relation to such property.

(3) All real and personal property which immediately before the commencement of this Act was held by or vested in the University of Queensland in trust for or on behalf of the University College of Townsville shall by virtue of this Act be divested from the University of Queensland and shall, as from such commencement, vest in the university and shall, subject to subsection (4), be applied by the university for the objects and purposes for which the university is established.

(4) If any property vested in the university by subsection (3) is or shall be subject to any condition or trust, such property shall be held by the university subject to the conditions or trusts upon which it was held immediately before such vesting; and any reference in any such conditions or trusts to the University College of Townsville shall, as from the commencement of this Act, be read and construed as a reference to the university.

(5) All rights accruing or accrued to the University of Queensland in

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respect of any property vested in the university by operation of subsection (3) are hereby vested in the university and may be enforced by the university.

(6) All liabilities of the University of Queensland in respect of any property vested in the university by operation of subsection (3) may be enforced against the university.

Provisions for staff

46.(1) Every person who, immediately before the commencement of this Act, held any salaried office or employment in the University College of Townsville shall become and be an officer or employee of the university on such terms and conditions (including terms and conditions as to remuneration and duration of appointment, but not including terms and conditions prescribing the title, duties or status of the office or employment) as the council may determine, but not less favourable than those upon which the person so held that office or employment.

(2) Subsection (1) shall not apply to or in respect of a person who immediately before the commencement of this Act held office in the University College of Townsville as a part-time lecturer, temporary lecturer, temporary tutor or temporary demonstrator, or to or in respect of any other person who had not, before such commencement, been appointed by the senate of the University of Queensland as a permanent member of the staff of the University College of Townsville.

(3) A person referred to in subsections (1) and (2) shall not have any right to damages or compensation in respect of the termination, in consequence of this Act coming into operation, of the person's tenure of any office or employment in the University College of Townsville.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 12 May 1997. Future amendments of the James Cook University of North Queensland Act 1970 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 36 of 1995	10 November 1995

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

James Cook University of North Queensland Act 1970 No. 19

date of assent 20 April 1970
commenced on date of assent

as amended by—

James Cook University of North Queensland Act Amendment Act 1973 No. 52

date of assent 22 October 1973
commenced on date of assent

Age of Majority Act 1974 No. 57 s 8 sch

date of assent 27 September 1974
commenced 1 March 1975 (proc pubd gaz 16 November 1974 p 1083)

Universities Acts Amendment Act 1977 No. 4 pt 3

date of assent 5 April 1977
commenced on date of assent

**James Cook University of North Queensland and Townsville College of
Advanced Education Amalgamation Act 1981 No. 92 pt 3**

date of assent 3 December 1981
commenced 1 January 1982 (see s 2(2))

Statutory Bodies Financial Arrangements Act 1982 No. 33 s 14(2), (4) sch 3

date of assent 1 September 1982
commenced on date of assent

Universities Acts Amendment Act 1983 No. 20 pt 4

date of assent 19 April 1983
commenced on date of assent

**Educational Institutions (Amendment of Superannuation Provisions) Act 1984
No. 82 pt 6**

date of assent 26 October 1984
commenced on date of assent

**Universities and Colleges (Higher Education Administration Charges) Act 1987
No. 2 pt 4**

date of assent 19 March 1987
commenced 4 April 1987 (proc pubd gaz 4 April 1987 p 1649)

Universities and Colleges of Advanced Education Act 1989 No. 62 pt 2

date of assent 12 May 1989
commenced 5 August 1989 (proc pubd gaz 5 August 1989 p 3002)

Statute Law (Miscellaneous Provisions) Act 1990 No. 88 s 3 sch

date of assent 6 December 1990
commenced on date of assent (see s 2(1))

Griffith University and Queensland Conservatorium of Music Amalgamation and Miscellaneous Amendments Act 1991 No. 23 pt 5

date of assent 5 June 1991
commenced on date of assent (see s 2(1))

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2, sch 2

date of assent 2 July 1992
commenced on date of assent

Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36 pt 1, s 9 sch 2

date of assent 16 June 1995
commenced on date of assent

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996
ss 1–2 commenced on date of assent
remaining provisions not yet proclaimed into force

Education (School Curriculum P–10) Act 1996 No. 65 ss 1–2, 52 sch 2

date of assent 9 December 1996
commenced on date of assent

7 List of annotations

Short title

prov hdg amd R1 (see RA s 7(1)(k))
s 1 amd R1 (see RA s 37)

Division of Act

s 2 amd 1989 No. 62 s 4
om 1992 No. 36 s 2 sch 2

Interpretation

s 3 def “**company**” ins 1989 No. 62 s 5
def “**Minister**” om 1992 No. 36 s 2 sch 2
def “**permanent academic staff**” amd 1973 No. 52 s 2
def “**permanent non-academic staff**” ins 1983 No. 20 s 14(a)
def “**vehicle**” ins 1983 No. 20 s 14(b)

Establishment and incorporation of university

s 4 amd 1989 No. 62 s 6

Constitution of first council

s 6 om R1 (see RA s 38)

Constitution of council

prov hdg amd R1 (see s 6 and RA s 7(1)(k))
s 7 amd 1981 No. 92 s 21; 1983 No. 20 s 15; 1991 No. 23 s 27; 1992 No. 36 s 2 sch 2; R1 (see s 6 and RA s 7(1)(k))

Disqualifications from office

s 8 amd 1974 No. 57 s 8 sch; 1987 No. 2 s 9; 1996 No. 65 s 52 sch 2

Chair of council

s 12 hdg amd R1 (see RA s 25)

Appointment of vice-chancellor

s 13 amd R1 (see RA s 38); 1996 No. 65 s 52 sch 2

Powers of council

s 16 amd 1990 No. 88 s 3 sch

Superannuation schemes

s 16A ins 1984 No. 82 s 12
 sub 1995 No. 36 s 9 sch 2

Delegation by council

s 17 amd 1973 No. 52 s 3

Constitution of convocation

s 18 amd 1973 No. 52 s 4; 1981 No. 92 s 22

Transitional

s 22 om R1 (see RA s 38)

Functions of the university

s 23 amd 1981 No. 92 s 23; 1989 No. 62 s 7

University may accept gifts etc. subject to conditions, and establish trust funds

s 33 amd 1989 No. 62 s 8

Powers of investment

s 34 amd 1973 No. 52 s 5

Financial accommodation

prov hdg sub 1977 No. 4 s 6(a)
s 37 amd 1977 No. 4 s 6(b); 1982 No. 33 s 14(2) sch 3; 1983 No. 20 s 16
 sub 1996 No. 54 s 9 sch

Accounts and audits

s 38 amd 1973 No. 52 s 6

**PART 5A—PROVISIONS RELATING TO COMPANIES, JOINT
AGREEMENTS AND ARRANGEMENTS, AGREEMENTS FOR USE OF
FACULTIES AND STAFF**

pt hdg ins 1989 No. 62 s 9

Formation of and participation in companies etc.

s 38A ins 1989 No. 62 s 9

Use of faculties and staff

s 38B ins 1989 No. 62 s 9

Companies to furnish returns etc.

s 38C ins 1989 No. 62 s 9

Audit requirements

s 38D ins 1989 No. 62 s 9

Statutes

s 39 amd 1983 No. 20 s 17; 1987 No. 2 s 10; 1989 No. 62 s 10

8 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 s 9 sch reads as follows—

Amendment**1. Section 37—**

omit, insert—

‘University is statutory body

‘37.(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the university is a statutory body.

‘(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the university’s powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.’.