

Queensland



AGRICULTURAL COLLEGES ACT 1994

**Reprinted as in force on 21 July 2000
(includes amendments up to Act No. 26 of 2000)**

Warning—see last endnote for uncommenced amendments

Reprint No. 1C

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Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 21 July 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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 reprints 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.**

Queensland



AGRICULTURAL COLLEGES ACT 1994

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AGRICULTURAL COLLEGES ACT 1994

[as amended by all amendments that commenced on or before 21 July 2000]

An Act about agricultural colleges

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Agricultural Colleges Act 1994*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Definitions

3. In this Act—

“**accredited**” means accredited under the *Vocational Education, Training and Employment Act 1991*.

“**agricultural college**” means a State college that is declared to be an agricultural college.

“**appointed member**” means a person appointed under section 14 as a member of a college board.

“**college**” means an agricultural college.

“**college board**” see section 6.

“**college hostel**” means premises kept by a college board for student accommodation.

“**member**” means a member of a college board.

“official member” means a person who is an official member of a college board.

“State college” has the meaning given by the *Vocational Education, Training and Employment Act 1991*.

“State land” means land—

- (a) granted in trust, or reserved and set apart for a purpose, under the *Land Act 1962*; and
- (b) vested in or placed under the control of a college board.

“student” of a college means a student enrolled in the college.

Declaration of agricultural colleges

4.(1) This section applies to a State college that offers, or will offer, courses about agriculture, pasturage or animal husbandry.

(2) The Minister may, by Gazette notice, declare the State college to be an agricultural college.

Application of Vocational Education, Training and Employment Act 1991

5. The following sections of the *Vocational Education, Training and Employment Act 1991* do not apply to a college—

- section 38 (Powers incident to maintaining State colleges)
- section 42 (Approved scheme)
- section 43 (Variation of trust purposes)
- section 44 (Amendment of approved scheme)
- section 45 (Requirement for schemes)
- section 46 (Recording schemes in land register)
- section 47 (Rights and jurisdiction in equity not affected)
- section 48 (Disposal of moneys)
- section 52 (Establishment and constitution of councils)
- section 53 (Functions of State college council)

- section 54 (Appointment of members)
- section 55 (Removal of members)
- section 56 (Chairperson, deputy chairperson)
- section 57 (Vacancy in membership)
- section 58 (Filling casual vacancies).

PART 2—AGRICULTURAL COLLEGE BOARDS

Division 1—College board establishment and general powers and functions

Board of trustees

- 6.(1)** There is a board of trustees for each college (the “college board”).
- (2)** The college board—
- (a) is a corporation with perpetual succession; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name.
- (3)** The corporation’s name is the ‘[Name of locality] Agricultural College Board’.
- (4)** For subsection (3), the Minister may, by Gazette notice, nominate the name of the locality for inclusion in the corporation’s name.

Functions of college board

- 7.(1)** The college board for a college is the college’s governing body.
- (2)** The college board has the functions conferred on it by this or another Act.
- (3)** Without limiting subsection (2), the college board’s functions include—

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- (a) ensuring the college provides education at an appropriate standard about things connected with rural industry; and
- (b) ensuring the college provides accredited courses of study at levels of achievement approved by the Minister; and
- (c) helping the director assess overall staff and student performance; and
- (d) helping in college operations by providing board representation—
 - (i) on college committees; and
 - (ii) in proceedings to decide appeals by students against assessment, exclusion or discipline; and
- (e) communicating information about the college to the community; and
- (f) encouraging the establishment of local industry advisory committees in cooperation with any industry training advisory body for rural industry for the area served by the college; and
- (g) monitoring rural industry training needs for the area served by the college.

Powers of college board

8.(1) A college board has all the powers of an individual, and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, dispose of, and deal with property; and
- (c) appoint agents and attorneys; and
- (d) engage consultants; and
- (e) fix charges, and other terms, for services and facilities it supplies; and
- (f) do anything else necessary or convenient to be done for, or in connection with, its functions.

(2) Without limiting subsection (1), a college board has the powers given to it under this or another Act and, in particular, has power—

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- (a) to appoint the college's staff, including the secretary of the college board; and
- (b) to manage and control the college's affairs and property; and
- (c) to manage and control the college's finances; and
- (d) to decide the college's strategic direction and profile; and
- (e) to develop appropriate curricula for the college in consultation with industry, business and the community; and
- (f) to decide the physical and resource needs for courses and activities at the college; and
- (g) to identify continuing and emerging rural training needs in rural communities; and
- (h) to review and develop the provision of student services; and
- (i) to provide college hostel accommodation for students; and
- (j) to make other provision for the college of a kind the chief executive of the department may make for a State college under the *Vocational Education, Training and Employment Act 1991*, section 38 (Powers incident to maintaining State colleges).

(3) However, unless it has the Minister's approval, a college board must not—

- (a) alter a college building (other than in a minor way); or
- (b) extend a college building; or
- (c) build or buy a building for use by the college; or
- (d) sell college land or a college building.

(4) A college board may exercise its powers inside or outside Queensland.

(5) Without limiting subsection (4), a college board may exercise its powers outside Australia.

Way college board must act

9. A college board must act in the way that appears to it most likely to promote the interests of its college.

College board is subject to direction

10. Despite a college board's powers, it must comply with a written direction given to it by the Minister about its policy, or the exercise of its functions or powers.

Delegation

11.(1) A college board may delegate its powers under this Act to the college's director.

(2) However, the college board may not delegate its power—

- (a) to make college rules; or
- (b) to adopt the college's annual budget.

Division 2—College board composition and members**Membership of college board**

12. A college board consists of official members and appointed members.

Official members

13.(1) There are 3 official members.

(2) The official members are—

- (a) the college's director; and
- (b) a nominee of the chief executive of the department; and
- (c) the president of the student body recognised by the director as representing the interests of the college's students.

(3) The chief executive's nominee must be a person employed at a level at least equivalent to that of director of a State college.

Appointed members

14.(1) There are 9 appointed members.

(2) The Governor in Council is to appoint the appointed members.

(3) The appointed members are—

- (a) 3 residents of the area served by the college; and
- (b) 1 nominee of—
 - (i) the local government for the local government area in which the college is situated; or
 - (ii) if the local government is a city or town and there is an adjoining shire—the adjoining shire; and
- (c) 1 staff member of the college nominated by college staff; and
- (d) 1 nominee of the chief executive of the department responsible for the administration of the *Forestry Act 1959*; and
- (e) 3 nominees of the Minister.

(4) A member mentioned in subsection (3)(a) must be a nominee of an entity representing persons engaged in rural industry in the area served by the college.

(5) A member mentioned in subsection (3)(a) or (e) must have experience in a rural industry carried on in the area served by the college.

Term of appointment

15. An appointed member is to be appointed for a term of 4 years.

Failure to nominate

16.(1) If an entity permitted to nominate a person or persons for appointment as a member fails to nominate any or enough eligible persons by a day fixed by the Minister by written notice given to the entity, the Minister may nominate as many persons as necessary to satisfy section 14 (Appointed members).

(2) A person appointed because of a nomination under subsection (1) is taken to have been appointed on the entity's nomination.

(3) This section applies to, but is not limited to, an appointment required because of a casual vacancy.

Person may act as appointed member

17. The Governor in Council may appoint a person to act as an appointed member during any period, or all periods, when the member is absent from the State or, for another reason, cannot perform the functions of the office.

Vacation of office

18.(1) The office of an appointed member becomes vacant if—

- (a) the member dies; or
- (b) the member ceases to be eligible to become a member of the type concerned; or
- (c) the member is absent without the college board's leave and without reasonable excuse from 3 consecutive meetings of the board; or
- (d) the member resigns from office by signed notice of resignation given to the Minister.

(2) A resignation takes effect on the day the notice of resignation is given to the Minister or, if a later day of effect is stated in the notice, the later day.

Division 3—Chairperson and deputy chairperson**Chairperson**

19.(1) The Governor in Council must appoint 1 of the members of a college board as chairperson of the board.

(2) The chairperson must be a member with experience in a rural industry that is part of the college's curricula.

(3) The chairperson is the executive member of the college board.

Deputy chairperson

20.(1) The members of a college board must elect 1 of the members as deputy chairperson of the board whenever there is a vacancy in the office.

(2) The deputy chairperson is to act as chairperson—

- (a) when there is a vacancy in the office; and
- (b) during any period, or all periods, when the chairperson is absent from the State or, for another reason, cannot perform the functions of the office.

Division 4—Meetings of college board

Who is to preside at meetings of college board

21.(1) The chairperson must preside at meetings of the college board.

(2) If the chairperson is absent from a meeting, the deputy chairperson must preside at the meeting.

(3) If the chairperson and the deputy chairperson are both absent from a meeting of a college board or the offices are vacant, the members present must elect a member to preside at the meeting.

Quorum

22. A quorum exists at a meeting of a college board if more than half the members are present.

Conduct of meeting

23. A college board may otherwise regulate its proceedings as it considers appropriate.

Division 5—Other provisions about college board members

Entitlements of college board members

24.(1) A member (other than the director or a staff member of the college) is entitled to be paid the fees and allowances that may be approved by the Governor in Council.

(2) A member of a college board may be reimbursed out-of-pocket expenses that—

- (a) are necessarily incurred by the member in performing the functions of the office; and
- (b) are approved by the college board.

Training for college board members

25. The chief executive of the department must ensure members receive training about the exercise of their functions as members of a corporation that the chief executive considers appropriate.

PART 3—THE DIRECTOR

Director

- 26.(1)** Each college has a director.
- (2)** The college board is to appoint the director.
- (3)** The director is the chief executive officer of the college.
- (4)** Subject to the board, the director is responsible for the day to day management of the college.

Acting director

- 27.** The college board may appoint a person to act as director—
 - (a) during any vacancy, or all vacancies, in the office; or
 - (b) during any period, or all periods, when the director is absent from the State or, for another reason, cannot perform the functions of the office.

PART 4—PROPERTY AND FINANCE

Division 1—Dealing with State land by college board

Application of Land Act 1962

28.(1) State land is held and may be disposed of under the *Land Act 1962*.

(2) However, a college board may only grant an interest in State land by way of lease.

(3) The lease must—

- (a) be for a term of not more than 20 years; and
- (b) not contain a covenant, agreement or option for the renewal of the lease or the purchase of the land; and
- (c) be for the highest annual rent that can reasonably be obtained without taking a fine, premium or other consideration for the grant of the lease and having regard to the purpose for which the land is to be used.

Division 2—Finance

Funds

29.(1) A college board may establish and administer the following kinds of funds—

- (a) a trust fund;
- (b) a loan fund;
- (c) a general fund;
- (d) a kind of fund prescribed by regulation.

(2) A regulation may specify the purpose for which amounts held in a particular kind of fund may be used.

Trust fund

30.(1) The college board must pay into the trust fund amounts paid to the board for use for a particular person or a particular purpose.

(2) The college board may only use an amount paid into the trust fund for the person or purpose for which it was paid to the board.

(3) Tuition fees are not to be paid into the trust fund.

Loan funds

31.(1) The college board must pay into the loan fund amounts paid to the board by way of loan or subsidy.

(2) The college board may only use amounts held in the loan fund to pay expenses necessarily incurred in giving effect to the purpose of the loan or subsidy.

General fund

32.(1) The college board must pay into the general fund amounts paid to the college out of the Consolidated Fund.

(2) The college board may also pay into the general fund amounts received by the board from another source, including, for example, tuition fees or other charges or the sale of produce or stock.

(3) The college board may only use amounts held in the general fund to pay the college's general operating costs.

Other funds

33. If a college board establishes a fund of a kind prescribed by regulation under section 29(1)(d) (Funds), the board—

- (a) must pay into the fund amounts paid to the board for the fund's purposes; and
- (b) may only use amounts held in the fund for the fund's purposes.

Financial review

34.(1) A college board must, in each financial year, adopt a budget for the college for the next financial year.

(2) In framing its budget, the college board must have regard to any resource agreement entered into between the college board and the chief executive of the department.

(3) The college board must control its spending as nearly as possible within the limits of the approved budget.

Division 3—Application of finance Acts**College board is statutory body**

35.(1) The college board is a statutory body under—

- (a) the *Financial Administration and Audit Act 1977*; and
- (b) the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the college board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*, including, for example, section 8(4) and (5) of this Act.

PART 5—COLLEGE RULES**College rules**

36.(1) A college board may make college rules.

(2) A college rule may only be made about—

- (a) fees to be paid by students; and
- (b) the disciplining of students; and
- (c) the management and control of the college; and
- (d) procedures for meetings of the college board; and

(e) the making and notifying of college rules.

(3) However, the college board must not make a college rule about fees to be paid by students without the Minister's previous approval.

(4) A rule under subsection (2)(b) may not impose a monetary penalty on a student.

Notification of college rules

37.(1) A college rule—

- (a) must be notified in the way required by college rule or, if there is no appropriate college rule, decided by the college board; and
- (b) takes effect on the day of its notification or, if a later day or time is fixed in the rule, on the day or at the time fixed.

(2) On the day a college rule is notified under subsection (1)(a) or as soon as practicable after that day, copies of the rule must be available to be obtained (by purchase or otherwise) at the place, or at each of the places, specified in the notice.

(3) Failure to comply with subsection (2) does not affect the validity of the notification under subsection (1)(a).

PART 6—GENERAL

Driver training

38.(1) In this section—

“**driver licence**” has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

“**motor vehicle**” has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

“**road**” has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

(2) Despite the *Transport Operations (Road Use Management) Act*

1995, a student who is required to drive a motor vehicle on a road or in college grounds as part of the student's training at the college is, while driving the motor vehicle, taken to hold a driver licence to drive the motor vehicle.

What happens to assets and liabilities on closure of college

39.(1) This section applies if—

- (a) a college closes; and
- (b) the college board—
 - (i) holds property (other than State land) when the college closes; or
 - (ii) has liabilities.

(2) A regulation may divest property held by the college board from the board and vest it in the Corporation under the *Vocational Education, Training and Employment Act 1991*.

(3) If the college board held the property on trust, the property is held by the Corporation subject to the terms of the trust.¹

(4) Also, a regulation may transfer the college board's liabilities to the Corporation.

Regulation making power

40. The Governor in Council may make regulations under this Act.

PART 7—TRANSITIONAL

References to rural training schools etc.

48.(1) This section applies to references in Acts and documents in

¹ The *Vocational Education, Training and Employment Act 1991*, part 2, division 5 allows the Corporation to work out an alternative scheme for the use of trust property when the original purpose of the trust cannot be carried out because, for example, the purpose has ceased to exist.

existence on its commencement.

(2) A reference to a rural training school, or a particular rural training school, under the *Rural Training Schools Act 1965* is taken to be a reference to an agricultural college, or the agricultural college concerned, under this Act.

(3) A reference to the board of trustees of a rural training school, or a particular board of trustees, under the *Rural Training Schools Act 1965* is taken to be a reference to a college board, or the particular college board concerned, under this Act.

(4) A reference to the *Rural Training Schools Act 1965* is taken to be a reference to this Act.

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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 21 July 2000. Future amendments of the Agricultural Colleges Act 1994 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
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

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

Reprint No.	Amendments included	Reprint date
1	none	3 March 1995
1A	to Act No. 54 of 1996	13 June 1997
1B	to Act No. 42 of 1999	21 January 2000

5 List of legislation

Agricultural Colleges Act 1994 No. 58

date of assent 4 November 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 3 February 1995 (1995 SL No. 20)

as amended by—

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 commenced 1 June 1997 (1997 SL No. 128)

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (see s 2(1))

Training and Employment Act 2000 No. 23 ss 1, 2(3), 293 sch 2

date of assent 27 June 2000

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force**Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26 ss 1, 12 sch 1**

date of assent 27 June 2000

commenced on date of assent

6 List of annotations

Definitions

- s 3 def “**accredited**” amd 2000 No. 23 s 293 sch 2
 def “**agricultural college**” sub 2000 No. 23 s 293 sch 2
 def “**registered training organisation**” ins 2000 No. 23 s 293 sch 2
 def “**State college**” om 2000 No. 23 s 293 sch 2
 def “**TAFE institute**” ins 2000 No. 23 s 293 sch 2

Declaration of agricultural colleges

- s 4 amd 2000 No. 23 s 293 sch 2

Application of Vocational Education, Training and Employment Act 1991

- s 5 om 2000 No. 23 s 293 sch 2

Powers of college board

- s 8 amd 2000 No. 23 s 293 sch 2

Official members

- s 13 amd 2000 No. 23 s 293 sch 2

Appointed members

- s 14 amd 2000 No. 26 s 12 sch 1

College board is statutory body

- s 35 amd 1996 No. 54 s 9 sch

Driver training

- s 38 amd 1999 No. 42 s 54(3) sch pt 3

What happens to assets and liabilities on closure of college

- s 39 amd 2000 No. 23 s 293 sch 2

PART 7—TRANSITIONAL**pt hdg** amd R1 (see RA s 7(1)(k))**Definitions****s 41** exp 3 February 1996 (see s 50)**Repeal****s 42** om R1 (see RA s 40)**Rural training schools****s 43** exp 3 February 1996 (see s 50)**Existing boards of trustees****s 44** exp 3 February 1996 (see s 50)**Property****s 45** exp 3 February 1996 (see s 50)**Rules****s 46** exp 3 February 1996 (see s 50)**Staff****s 47** exp 3 February 1996 (see s 50)**Transitional regulations****s 49** exp 3 February 1996 (see s 50)**Expiry of Part****s 50** exp 3 February 1996 (see s 50)

7 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)).

Training and Employment Act 2000 No. 23 s 293 sch 2 reads as follows—

1. Section 3, definitions “agricultural college” and “State college”—

omit.

2. Section 3—

insert—

‘**“agricultural college”** means a registered training organisation that is—

- (a) operated by the State; and
- (b) declared by the Minister under section 4 to be an agricultural college.

“registered training organisation” see the *Training and Employment Act 2000*, section 14.²

“TAFE institute” see the *Training and Employment Act 2000*, section 191.³.

3. Section 3, definition “accredited”, ‘Vocational Education, Training and Employment Act 1991’—

omit, insert—

‘Training and Employment Act 2000’.

4. Section 4(1), ‘State college’—

omit, insert—

‘registered training organisation operated by the State’.

5. Section 4(2), ‘State college’—

omit, insert—

‘registered training organisation’.

² The *Training and Employment Act 2000*, section 14, defines ‘registered training organisation’ as follows—

“registered training organisation”, is a training organisation that is registered to provide—

- (a) training services; or
- (b) recognition services.

³ The *Training and Employment Act 2000*, section 191, defines ‘TAFE institute’ as follows—

“TAFE institute”, is an institution operated by the State that provides vocational education and training.

6. Section 5—

omit.

7. Section 8(2)(j), from ‘State’ to ‘colleges’—

omit, insert—

‘TAFE institute under the *Training and Employment Act 2000*, section 217’.

8. Section 13(3), ‘a State college’—

omit, insert—

‘an agricultural college or TAFE institute’.

9. Section 39(2), from ‘Corporation’ to ‘1991’—

omit, insert—

‘State’.

10. Section 39(3) and (4), ‘Corporation’—

omit, insert—

‘State’.