



# **James Cook University Act 1997**

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Queensland

# James Cook University Act 1997

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# James Cook University Act 1997

## An Act about the James Cook University

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *James Cook University Act 1997*.

#### 2 Commencement

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

#### 3 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

### Part 2 The university and its council

#### Division 1 University establishment and general functions and powers

#### 4 Establishment of university

- (1) The James Cook University is established.
- (2) The university—
  - (a) is a body corporate; and
  - (b) has a seal; and

- (c) may sue and be sued in its corporate name.

## **5 Functions of university**

The university's functions are—

- (a) to provide education at university standard; and
- (b) to provide facilities for study and research generally and, in particular, in subjects of special importance to the people of the tropics; and
- (c) to encourage study and research generally and, in particular, in subjects of special importance to the people of the tropics; and
- (d) to provide courses of study or instruction (at the levels of achievement the council considers appropriate) to meet the needs of the community; and
- (e) to confer higher education awards; and
- (ea) to disseminate knowledge and promote scholarship; and
- (eb) to provide facilities and resources for the wellbeing of the university's staff, students and other persons undertaking courses at the university; and
- (f) to exploit commercially, for the university's benefit, a facility or resource of the university, including, for example, study, research or knowledge, or the practical application of study, research or knowledge, belonging to the university, whether alone or with someone else; and
- (g) to perform other functions given to the university under this or another Act.

## **6 General powers of university**

- (1) The university 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 other 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), the university has the powers given to it under this or another Act.
  - (3) The university may exercise its powers inside or outside Queensland.
  - (4) Without limiting subsection (3), the university may exercise its powers outside Australia.

## **Division 2                      Council establishment and general functions and powers**

### **7                      Establishment of council**

There is a council of the university.

### **8                      Functions of council**

- (1) The council is the university's governing body.
- (2) The council has the functions conferred on it under this or another Act.

### **9                      Powers of council**

- (1) The council may do anything necessary or convenient to be done for, or in connection with, its functions.
- (2) Without limiting subsection (1), the council has the powers given to it under this or another Act and, in particular—

- (a) to appoint the university's staff; and
- (b) to manage and control the university's affairs and property; and
- (c) to manage and control the university's finances.

## **10 Council to promote university's interests**

The council must act in the way that appears to it most likely to promote the university's interests.

## **11 Delegation**

- (1) The council may delegate its powers under this Act to—
  - (a) an appropriately qualified member of the council; or
  - (b) a committee consisting of appropriately qualified persons, but which must include 1 or more members of the council; or
  - (c) an appropriately qualified member of the university's staff.
- (2) However, the council may not delegate its power—
  - (a) to make an election policy; or
  - (b) to adopt the university's annual budget.
- (3) A delegation of a power under subsection (1) to the vice-chancellor may permit the subdelegation of the power to an appropriately qualified member of the university's staff.

## **Division 3 Council membership—no membership resolution**

### **11A Application of division**

This division applies if division 3A, subdivision 2 does not apply.

## **12 Membership of council**

The council consists of official members, appointed members, elected members and an additional member.

## **13 Official members**

The official members are—

- (a) the chancellor; and
- (b) the vice-chancellor; and
- (c) if the chairperson is not the vice-chancellor—the chairperson.

## **14 Appointed members**

- (1) There are 8 appointed members.
- (2) The Governor in Council is to appoint the appointed members.

## **15 Elected members**

- (1) There are 10 elected members.
- (2) The elected members are—
  - (a) 3 members of the academic staff; and
  - (b) 2 members of the professional and technical staff; and
  - (c) 1 undergraduate student; and
  - (d) 1 postgraduate student; and
  - (e) 1 undergraduate or postgraduate student; and
  - (f) 2 members of the convocation, other than persons eligible for membership under paragraph (a), (b), (c), (d) or (e).
- (3) Each elected member is to be elected at a council election.

## **16 Additional member**

- (1) There is 1 additional member.
- (2) The council must appoint the additional member.
- (3) The additional member must not be a member of the university's staff or a student.

## **17 When council is taken to be properly constituted**

- (1) The council is taken to be properly constituted if the total number of members holding office under this division is—
  - (a) if there is an official member under section 13(c)—at least 12; or
  - (b) otherwise—at least 11.
- (2) For subsection (1), it does not matter whether the members are official, appointed, elected or additional members.

## **18 Appointed member's term of office**

An appointed member is to be appointed for a term of not more than 4 years.

## **19 Elected member's term of office**

- (1) An elected member mentioned in section 15(2)(a), (b) or (f) holds office for 4 years.
- (2) An elected member mentioned in section 15(2)(c), (d) or (e) holds office for 2 years.
- (3) An elected member's term of office starts—
  - (a) if the member is re-elected—the day after the day when the member's previous term of office ends; or
  - (b) if paragraph (a) does not apply—the day after the day when the term of office of the member's predecessor ends.

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## **20 Additional member's term of office**

The additional member is to be appointed for a term of not more than 4 years decided by the council.

## **20A Dealing with casual vacancy in office of an elected member**

- (1) This section applies if a casual vacancy arises in the office of an elected member.
- (2) If the elected member was elected at a council election, the council must appoint to the office the one person, if any, who—
  - (a) was a candidate for the office in the council election; and
  - (b) was not elected; and
  - (c) received the highest number of votes of all the candidates who were not elected; and
  - (d) is eligible, under this Act, to be a member; and
  - (e) is willing to be, and available to perform the functions of, a member.
- (3) Subsection (4) applies if—
  - (a) the elected member was not elected at a council election; or
  - (b) no-one is eligible for appointment under subsection (2).
- (4) A person is to be elected to the office at a council election.
- (5) Despite subsection (4)—
  - (a) if the elected member was a student—the council may appoint a student to the office; and
  - (b) if the elected member was a member of the convocation—the council may appoint a member of the convocation to the office.

- (6) A person appointed under subsection (2) or (5) is taken, other than for subsection (2) or (3)(a), to have been elected at a council election.
- (7) In this section—  
*member of the convocation* does not include a member of the convocation who is eligible for membership of the council under section 15(2)(a), (b), (c), (d) or (e).

## 21 Failure to elect elected members

- (1) This section applies if, by the end of the relevant day—
  - (a) insufficient persons are elected for a class of elected members mentioned in section 15(2)(a), (b) or (f) (each a *relevant class*) to comply with section 15(2); or
  - (b) a person is not elected for a class of elected members mentioned in section 15(2)(c) to (e) (also each a *relevant class*).
- (2) The Minister may appoint, as elected members for the relevant class, the number of persons required to comply with section 15(2).
- (3) The council may, if asked by the Minister, nominate a person for appointment under subsection (2).
- (4) A person appointed under subsection (2) is taken, other than for section 20A(2) or (3)(a), to have been elected at a council election for the relevant class.
- (5) This section applies to the periodic election of members and an election required because of a casual vacancy.
- (6) In this section—  
*relevant day*, in relation to a relevant class, means the last day of the period notified under the election policy for the holding of a council election for an elected member of the relevant class.



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## 22 Casual vacancies

A person appointed or elected to fill a casual vacancy in the office of a member is appointed or elected for the balance of the term of office of the person's predecessor.

## Division 3A Council membership—membership resolution

### Subdivision 1 Preliminary

#### 22A Definitions for division

In this division—

*class*, of elected members, see section 22F(1).

*current membership resolution* means the most recent membership resolution passed by the council.

*effective day* see section 22J(5).

*end day*, of a member, means the day the member's term of office ends.

*membership class* means—

- (a) official members; or
- (b) appointed members; or
- (c) elected members who are members of the academic staff of the university; or
- (d) elected members who are members of the professional and technical staff of the university; or
- (e) elected members who are students; or
- (f) additional members.

*membership resolution* means a resolution under section 22J.

*previous membership resolution* means the last membership resolution passed by the council before the current membership resolution.

*total number of members*, in relation to a membership resolution, see section 22J(1)(a).

## **Subdivision 2 Council membership**

### **22B Application of subdivision**

This subdivision applies if the council passes a membership resolution.

### **22C Membership of council**

The council consists of the following members—

- (a) official members;
- (b) appointed members;
- (c) elected members;
- (d) additional members.

### **22D Official members**

The official members are—

- (a) the chancellor; and
- (b) the vice-chancellor; and
- (c) if the chairperson is not the vice-chancellor—the chairperson.

### **22E Appointed members**

The Governor in Council may appoint a person as an appointed member for a term of not more than 4 years.

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## 22F Elected members

- (1) The elected members consist of the following (each a *class* of elected members)—
  - (a) members of the academic staff of the university;
  - (b) members of the professional and technical staff of the university;
  - (c) students.
- (2) Each elected member is to be elected at a council election.
- (3) An elected member holds office for—
  - (a) if the elected member is a student—2 years; or
  - (b) otherwise—4 years.
- (4) An elected member's term of office starts—
  - (a) if the member is re-elected—on the day after the day when the member's previous term of office ends; or
  - (b) otherwise—
    - (i) on the day after the day when the term of office of the member's predecessor ends; or
    - (ii) if subparagraph (i) does not apply—on a day fixed by the council.

## 22G Additional members

- (1) The council may appoint a person as an additional member for a term of not more than 4 years.
- (2) An additional member must not be a member of the university's staff or a student.
- (3) At least 2 of the additional members must be graduates of the university.
- (4) In this section—  
*university* includes—

[s 22H]

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- (a) the University College of Townsville established under the repealed *University of Queensland Act 1965*, section 27; and
- (b) the James Cook University of North Queensland established under the repealed *James Cook University of North Queensland Act 1970*, section 4.

## **22H Particular provisions subject to sdiv 4**

Sections 22E to 22G apply subject to subdivision 4.

## **22I When council is taken to be properly constituted**

- (1) The council is taken to be properly constituted if the number of members holding office under this division is—
  - (a) if the current membership resolution has taken effect for each membership class—more than half of the total number of members stated in the resolution; or

*Note—*

See section 22M for when a membership resolution takes effect for a membership class.

  - (b) otherwise—more than half of the total number of members stated in the previous membership resolution.
- (2) For subsection (1), it does not matter whether the members are official, appointed, elected or additional members.

## **Subdivision 3 Membership resolutions**

### **22J Council may pass resolution**

- (1) The council may pass a resolution under this section stating all of the following—
  - (a) the number of members who are to constitute the council (the *total number of members*);

- (b) the numbers of official, appointed, elected and additional members;
  - (c) the number of each class of elected members.
- (2) The total number of members must be at least 11, but not more than 21.
- (3) For subsection (1)(b), the numbers must be—
- (a) for official members—2 or 3; and
  - (b) for appointed members—at least 3, but not more than 6; and
  - (c) for elected members—at least 3 or 25% of the total number of members (whichever is the greater), but not more than 6; and
  - (d) for additional members—at least 3, but not more than 6.
- (4) For subsection (1)(c)—
- (a) the number of each class of elected members must be at least 1; and
  - (b) the total number of elected members who are members of the university's staff must be greater than the number of elected members who are students.
- (5) The resolution must also state the day (the *effective day*) the resolution takes effect for each membership class other than appointed members.
- (6) For subsection (5), the effective day for a membership class must be a day when all of the following apply—
- (a) the number of elected members holding office is at least 25% of the total number of members stated in the resolution;
  - (b) the number of elected members of each class holding office is at least 1;
  - (c) the total number of elected members holding office who are members of the university's staff is greater than the number of elected members holding office who are students.

[s 22K]

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- (7) The resolution must be passed by at least two-thirds of the total number of members stated in the current membership resolution.

*Note—*

See section 22N for when the council may not pass a further membership resolution.

## **22K Current members not affected**

A membership resolution does not affect the term of office of a member who holds office when the resolution is passed.

## **22L Council must give Minister notice of membership resolution affecting class of appointed members**

- (1) This section applies if the council passes a membership resolution in which the number stated for appointed members is greater than or less than the number stated for appointed members in the previous membership resolution.
- (2) The council must give the Minister a notice stating—
  - (a) the number stated in the membership resolution for appointed members; and
  - (b) the date the resolution was passed.
- (3) The notice must be given at least 6 months before the earliest end day of the appointed members who hold office when the membership resolution is passed.

## **22M When membership resolution takes effect for membership class**

- (1) A membership resolution takes effect for a membership class, other than appointed members, on the effective day for the class.
- (2) A membership resolution takes effect for appointed members on the day, after the relevant end day, when the number of appointed members holding office is the number stated in the resolution for appointed members.

- 
- (3) For subsection (2), the *relevant end day* is the latest end day of the appointed members who hold office when the membership resolution is passed.

## **22N Restriction on passing further membership resolution**

The council may not pass a further membership resolution if the current membership resolution has not taken effect for each membership class.

## **Subdivision 4 Casual vacancies and related matters**

### **22O Dealing with casual vacancy in office of elected member**

- (1) This section applies if a casual vacancy arises, or will arise, in the office of an elected member, whether—
- (a) before a membership resolution takes effect for elected members of the class (the *relevant class*) of which the elected member was, or is, a member; or
  - (b) otherwise.
- (2) If the elected member was elected at a council election, the council must appoint to the office the one person, if any, who—
- (a) was a candidate for the office in the council election; and
  - (b) was not elected; and
  - (c) received the highest number of votes of all the candidates who were not elected; and
  - (d) is eligible, under this Act, to be a member; and
  - (e) is willing to be, and available to perform the functions of, a member.
- (3) Subsections (4) to (6) apply if—

- (a) the elected member was not elected at a council election; or
  - (b) no-one is eligible for appointment under subsection (2).
- (4) If the casual vacancy arises before a membership resolution takes effect for elected members of the relevant class, the council may appoint to the office a person who—
- (a) is eligible, under this Act, to be a member; and
  - (b) is an eligible person for the relevant class; and
  - (c) otherwise meets any nomination requirements under the election policy for the relevant class.
- (5) If the casual vacancy does not arise before a membership resolution takes effect for elected members of the relevant class, a person is to be elected to the office at a council election.
- (6) Despite subsection (5), if the elected member was a student, the council may appoint to the office a student who—
- (a) is eligible, under this Act, to be a member; and
  - (b) otherwise meets any nomination requirements under the election policy for the class of elected members mentioned in section 22F(1)(c).
- (7) A person appointed under subsection (2), (4) or (6) is taken, other than for subsection (2) or (3)(a), to have been elected at a council election.

## **22P Failure to elect elected members**

- (1) This section applies if, by the end of the relevant day, insufficient persons are elected for a class of elected members to comply with the current membership resolution.
- (2) The Minister may appoint, as elected members for the class, the number of persons required to comply with the current membership resolution.
- (3) The council may, if asked by the Minister, nominate a person for appointment under subsection (2).



- (4) A person appointed under subsection (2) is taken, other than for section 22O(2) or (3)(a), to have been elected at a council election for the class of elected members.
- (5) This section applies to the periodic election of members and an election required because of a casual vacancy.
- (6) In this section—  
*relevant day*, in relation to a class of elected members, means the last day of the period notified under the election policy for the holding of a council election for an elected member of the class.

## **22Q Casual vacancies**

A person appointed or elected to fill a casual vacancy in the office of a member is appointed or elected for the balance of the term of office of the person's predecessor.

## **Division 3B Matters relating to offices of appointed, elected and additional members**

### **23 Ineligibility for membership of council**

- (1) A person is not eligible to become an elected, appointed or additional member if—
  - (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or
  - (b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).
- (2) Also, a person is not eligible to be elected or appointed as an elected, appointed or additional member if the person's election or appointment as the member would result in the person being a member for more than 12 years, whether continuously or not.

- (3) Subsection (2) does not apply to a person if a majority of members agree the person may be elected or appointed as an elected, appointed or additional member.
- (4) Subsection (1)(b) is subject to sections 25 and 26.

## **24 Vacation of office**

- (1) The office of an elected, appointed or additional member becomes vacant if—
  - (a) the member dies; or
  - (b) for an elected member of a class mentioned in section 15(2)(a) to (f) or 22F(1)(a) to (c)—
    - (i) if the election policy in effect when the member was elected included nomination requirements for the class—the member ceases to meet the nomination requirements under the policy; or
    - (ii) otherwise—the member ceases to be an eligible person for the class; or

*Example—*

An elected member of a class mentioned in section 15(2)(d) ceases to be a postgraduate student.

- (c) for an additional member—the member becomes a member of the university’s staff or a student; or
- (d) the member is absent, without the council’s leave, from 3 consecutive meetings of the council of which proper notice has been given to the member; or
- (e) the member becomes an official member; or
- (f) the member resigns from office by signed notice—
  - (i) if the member is an appointed member—given to the Minister; or
  - (ii) if the member is an elected or additional member—given to the chancellor; or
- (g) the member is removed from office under section 26B; or

- (h) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (i) the member is convicted of an indictable offence, other than an offence in relation to which the member's office becomes vacant under paragraph (h).

*Note—*

See section 62D for the requirement to disclose a matter mentioned in paragraph (h) or (i).

- (2) Subsection (1)(i) is subject to sections 25 and 26.
- (3) A resignation takes effect on the day the notice of resignation is given to the Minister or the chancellor or, if a later day of effect is stated in the notice, the later day.

## **25 Discretion where appointed member convicted of indictable offence**

- (1) If the Minister considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in section 23(1)(b) or 24(1)(i) of which a person has been convicted, the Minister may—
  - (a) if the person was an appointed member when convicted—give notice to the chancellor and the person that the person is restored as an appointed member, and may be subsequently reappointed, despite the conviction; or
  - (b) otherwise—give written approval for the person to become an appointed member despite the conviction.
- (2) On the day the chancellor receives a notice under subsection (1)(a)—
  - (a) the person is restored as an appointed member; and
  - (b) if another person has been appointed to fill the vacancy, the other person's appointment ends.
- (3) If a person is restored as an appointed member under subsection (2), the person's term of office as a member ends

when it would have ended if the person had not been convicted of the offence.

## **26 Discretion where elected or additional member convicted of indictable offence**

- (1) If the council considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in section 23(1)(b) or 24(1)(i) of which a person has been convicted, the council may—
  - (a) if the person was an elected or additional member when convicted—give notice to the person that the person is restored as an elected or additional member, and may be subsequently re-elected or reappointed, despite the conviction; or
  - (b) otherwise—give written approval for the person to become an elected or additional member despite the conviction.
- (2) On the day the person receives a notice under subsection (1)(a)—
  - (a) the person is restored as an elected or additional member; and
  - (b) if another person has been elected or appointed to fill the vacancy, the other person's membership of the council ends.
- (3) If a person is restored as an elected or additional member under subsection (2), the person's term of office as a member ends when it would have ended if the person had not been convicted of the offence.

## **Division 3C Council elections**

### **26AA Election policy**

- (1) The council must—

- (a) make a policy (an *election policy*) about the conduct of elections required under sections 15, 20A, 22F and 22O; and
  - (b) publish the election policy on the university's website.
- (2) The election policy must include—
- (a) provisions to ensure the integrity and security of the voting system; and
  - (b) without limiting paragraph (a), provisions to ensure—
    - (i) only persons who are eligible to vote may vote; and
    - (ii) a person can not vote more than once in an election; and
    - (iii) voting is done by secret ballot; and
    - (iv) a person is not improperly influenced in voting; and
  - (c) provisions stating the procedure for voting, including the procedure for issuing ballots; and
  - (d) provisions about—
    - (i) notifying the period during which an election is to be held; and
    - (ii) nominating candidates, including calling for and making nominations, and fixing the day by which nominations must be made; and
    - (iii) publishing the results of an election, including the day by which the results must be published; and
    - (iv) making and resolving complaints.
- (3) Also, the election policy may include provisions stating requirements for—
- (a) eligibility to be nominated as a candidate for a particular class of elected members; and

[s 26AB]

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- (b) eligibility to vote, including eligibility to vote for a particular class of elected members.
- (4) The election policy takes effect on the day it is published on the university's website or any later day stated in the policy.

### **26AB Conduct of election**

An election required under section 15, 20A, 22F or 22O must be held under the election policy.

### **26AC Eligibility to vote**

A person is eligible to vote in an election for a class of elected members mentioned in section 15(2)(a) to (f) or 22F(1)(a) to (c) only if the person—

- (a) is an eligible person for the class of elected members; and
- (b) otherwise meets any requirements under the election policy for eligibility to vote.

## **Division 4                      Members' function, and removing elected, appointed and additional members from office**

### **26A Member's function, and obligations about function**

- (1) A member has the function of ensuring the council performs its functions and exercises its powers appropriately, effectively and efficiently.
- (2) In performing the function, a member—
  - (a) must act honestly and in the best interests of the university; and
  - (b) must exercise reasonable skill, care and diligence; and

- (c) must disclose to the council any conflict that may arise between the member's personal interests and the interests of the university; and
- (d) must not make improper use of his or her position as a member, or of information acquired because of his or her position as a member, to gain, directly or indirectly, an advantage for the member or another person.

## **26B Council may remove member from office**

- (1) The council may remove an elected, appointed or additional member from office if at least two-thirds of its members are satisfied the member has not complied with—
  - (a) section 26A(2); or
  - (b) a conduct obligation.
- (2) If the council decides to remove a member from office under subsection (1), the council must as soon as practicable—
  - (a) give the member notice of the decision and the reasons for it; and
  - (b) if the member is an appointed member—give the Minister a copy of the notice.
- (3) If the council gives a member a notice under subsection (2)(a), the member's term of office ends on the later of the following—
  - (a) the day the member receives the notice;
  - (b) the day, if any, stated in the notice for that purpose.
- (4) The council's power to remove an appointed member from office under this section does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).

## **Division 5                      Extending terms of office**

### **26C    Minister may extend terms of office**

- (1) The Minister may, by notice given to the council, extend the terms of office of the elected, appointed and additional members for not more than 1 year if the Minister is satisfied the extension—
  - (a) is in the best interests of the university; and
  - (b) is necessary for the council to perform its functions and exercise its powers appropriately, effectively and efficiently.
- (2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all elected, appointed and additional members.
- (3) The extension applies only to members holding office when the notice is given under subsection (1).
- (4) This section—
  - (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
  - (b) applies despite sections 18, 19(1) and (2), 20, 22E, 22F(3) and 22G(1).
- (5) However, this section does not apply if a membership resolution has been passed, but has not taken effect for each membership class.

## **Division 6                      Meetings of the council**

### **27    Who is to preside at meetings**

- (1) The chancellor must preside at meetings of the council.
- (2) However, if the chancellor and deputy chancellor are both absent from a meeting of the council or the offices are vacant,



the members present must elect a member to preside at the meeting.

**28 Quorum**

A quorum exists at a meeting of the council if at least half its members are present.

**29 Conduct of meetings**

The council may otherwise regulate its proceedings as it considers appropriate.

**Part 3 Certain officers of the university**

**30 Chancellor**

- (1) There is a chancellor of the university.
- (2) The council must elect a chancellor whenever there is a vacancy in the office.
- (3) The person elected need not be a member.
- (4) The person elected must not be a student or a member of the university's staff.
- (5) The chancellor holds office for the term, not longer than 5 years, fixed by the council.

**31 Deputy chancellor**

- (1) There is a deputy chancellor of the university.
- (2) The council must elect a member as deputy chancellor whenever there is a vacancy in the office.
- (3) The deputy chancellor holds office for the term, not longer than 4 years, fixed by the council.

- (4) The deputy chancellor is to act as chancellor—
  - (a) during a vacancy in the office of chancellor; and
  - (b) during all periods when the chancellor is absent from duty or, for another reason, can not perform the functions of the office.

### **32 Vice-chancellor**

- (1) There is a vice-chancellor of the university.
- (2) The council must appoint a vice-chancellor whenever there is a vacancy in the office.
- (3) The terms of appointment are as decided by the council.
- (4) The vice-chancellor is the chief executive officer of the university and may exercise the powers and perform the functions conferred on the vice-chancellor by this or another Act or the council.
- (5) The vice-chancellor may delegate powers of the vice-chancellor under this or another Act to an appropriately qualified member of the university's staff.

*Note—*

See also section 11(3) in relation to the subdelegation by the vice-chancellor of a power delegated by the council.

## **Part 4 Bodies connected with the university**

### **Division 1 Convocation**

#### **33 Establishment of convocation**

- (1) A convocation of the university is established.
- (2) The council is to decide the membership of the convocation.
- (3) The council is to decide—

- (a) how meetings of the convocation are to be called; and
- (b) how the convocation is to conduct its proceedings; and
- (c) if and how members of the convocation are to be appointed as members of the council; and
- (d) the quorum of a meeting of the convocation; and
- (e) the powers and functions of the convocation.

## **Division 2                      Union**

### **34                      Establishment of union**

- (1) The James Cook University Union is established.
- (2) The union—
  - (a) is a body corporate with perpetual succession; and
  - (b) has a common seal; and
  - (c) may sue and be sued in its corporate name.

### **35                      Composition**

The persons who are eligible to be members of the union are—

- (a) students; and
- (b) persons eligible for membership under the union's constitution.

### **36                      Role**

- (1) The union has the role and powers stated in its constitution.
- (2) The union also has the role and powers decided by the council.
- (3) However, the union is not the employee or agent of the council.

### **37 General powers**

Without limiting section 36, the union has all the powers of an individual, including, for example, the power to acquire, hold, dispose of, and deal with, property.

### **38 Constitution**

- (1) The union must have a written constitution.
- (2) The union's constitution, and each amendment of the constitution, must be submitted to the council for its approval.
- (3) The constitution or amendment has no effect until approved by the council.

## **Division 4 Academic board**

### **40 Establishment of academic board**

- (1) The council may establish an academic board of the university.
- (2) The council is to decide—
  - (a) the membership of the academic board; and
  - (b) the functions of the academic board in relation to academic matters, including teaching and learning, academic policies and research.

### **40A Chairperson of academic board**

- (1) There is to be a chairperson of the academic board.
- (2) The council must decide who is the chairperson.
- (3) The chairperson holds office for the term, not longer than 3 years, decided by the council.

## **Division 5                      Application of Corporations legislation to bodies**

### **40B      Excluded matters for Corporations legislation**

- (1) Each of the following is declared to be an excluded matter for the Corporations Act, section 5F, in relation to parts 5.7 and 5.7B of that Act—
  - (a) the convocation;
  - (b) the academic board.
- (2) The union is declared to be an excluded matter for the Corporations Act, section 5F, in relation to the provisions of that Act for which a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982* is declared to be an excluded matter under section 13A of that Act.

*Editor's note—*

Corporations Act, part 2D.1 (Duties and powers), part 2D.6 (Disqualification from managing corporations), chapter 2K (Charges), chapter 2L (Debentures), part 5.7 (Winding up bodies other than companies), part 5.7B (Recovering property or compensation for the benefit of creditors of insolvent company), part 5.9 (Miscellaneous) and part 5B.2 (Registrable bodies)

## **Part 4A                      Matters relating to offices of chancellor, deputy chancellor, vice-chancellor and chairperson**

### **40C      Disqualification from office**

- (1) A person can not become, or continue as, the chancellor, vice-chancellor or chairperson if—
  - (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or

- (b) subject to subsections (2) to (4), the person has a conviction for an indictable offence other than an offence in relation to which the person is disqualified from office under paragraph (a).

*Note—*

See section 62D for the requirement to disclose the disqualification or conviction.

- (2) If the council considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in subsection (1)(b) of which the person has been convicted, the council may—
  - (a) if the person was the chancellor, vice-chancellor or chairperson when convicted—give notice to the person that the person—
    - (i) is restored as the chancellor, vice-chancellor or chairperson; and
    - (ii) may be later re-elected or reappointed, despite the conviction; or
  - (b) otherwise—give written approval for the person to become the chancellor, vice-chancellor or chairperson despite the conviction.
- (3) On the day the person receives a notice under subsection (2)(a)—
  - (a) the person is restored as the chancellor, vice-chancellor or chairperson; and
  - (b) if another person has been elected or appointed to fill the vacancy—the other person’s term of office ends.
- (4) If a person is restored as the chancellor, vice-chancellor or chairperson under subsection (3), the person’s term of office as the chancellor, vice-chancellor or chairperson ends when it would have ended if the person had not been convicted of the offence.

**40D Council may remove chancellor, vice-chancellor or chairperson from office**

- (1) The council may remove the chancellor, vice-chancellor or chairperson from office if at least two-thirds of its members are satisfied the chancellor, vice-chancellor or chairperson has not complied with—
  - (a) section 26A(2); or
  - (b) a conduct obligation.
- (2) If the council decides to remove the chancellor, vice-chancellor or chairperson from office under subsection (1), the council must as soon as practicable give the chancellor, vice-chancellor or chairperson notice of the decision and the reasons for it.
- (3) The chancellor's, vice-chancellor's or chairperson's term of office ends on the later of the following—
  - (a) the day he or she receives the notice;
  - (b) the day, if any, stated in the notice for that purpose.

**40E Particular matters about removal of vice-chancellor**

- (1) The council may remove the vice-chancellor from office under section 40D despite the vice-chancellor's terms of appointment.
- (2) If the council removes the vice-chancellor from office under section 40D—
  - (a) the removal does not affect the vice-chancellor's right to claim compensation or other entitlements under his or her terms of appointment applying when the appointment ends; and
  - (b) the vice-chancellor may only claim compensation and other entitlements under his or her terms of appointment as if—
    - (i) the appointment had been ended as permitted under the terms of appointment; or

- (ii) his or her term of office had ended.

#### **40F Vacation of office**

- (1) The office of the chancellor, vice-chancellor or chairperson becomes vacant if he or she—
- (a) can not continue as the chancellor, vice-chancellor or chairperson under section 40C; or
  - (b) is removed from office under section 40D.
- (2) The office of the deputy chancellor becomes vacant if his or her office as a member becomes vacant under section 24 or he or she otherwise stops being a member.

## **Part 5 Property and finance**

### **Division 1 Property held on trust or conditions**

#### **41 Definition for div 1**

In this division—

*property* includes income from property and a part or residue of the property.

#### **42 Amendment of terms of trusts and gifts**

- (1) This section applies if—
- (a) property is held by the university on terms requiring the property to be used for a particular purpose (the *donor's purpose*); and
  - (b) the council is satisfied—
    - (i) the donor's purpose—
      - (A) has been wholly or substantially achieved; or
      - (B) no longer exists; or



- 
- (C) has been adequately provided for in another way; or
  - (D) is uncertain, can not be identified, or is insufficiently defined; or
  - (E) becomes impossible, impractical or inexpedient to carry out; or
- (ii) the property is inadequate for the donor's purpose.
- (2) The council may set up and maintain a scheme for the use of the property for another purpose (the *designated purpose*).
  - (3) The scheme must be in writing.
  - (4) The university must without charge give a copy of the scheme to anyone who asks for it.

#### **43 Selection of designated purpose**

- (1) In selecting the designated purpose, the council must prefer a purpose that—
  - (a) is as nearly similar as practicable to the donor's purpose; and
  - (b) can practically and conveniently be achieved.
- (2) However, the scheme is not invalid merely because another designated purpose may have been more properly selected under subsection (1).

#### **44 Property to be held for designated purpose**

Property to which the scheme applies is to be held by the university for the property's designated purpose instead of the donor's purpose.

#### **45 Certain persons to be given notice of scheme**

If the scheme applies to land, the university must, as soon as practicable after the scheme is set up, give a copy of the scheme to the registrar of titles.

#### **46 Amendment of scheme**

- (1) The council may amend the scheme.
- (2) Sections 42 to 45 apply to the amendment of a scheme as if a reference to the donor's purpose is a reference to the designated purpose of the scheme that is to be amended.

#### **47 University's powers under other laws not limited**

This division does not limit the university's powers and rights under any other law about property held on trust by the university.

#### **48 University may carry out conditions of gift etc.**

The university may agree to and carry out any conditions of a gift, grant, bequest or devise of property to the university.

### **Division 2 Dealing with State land by council**

#### **49 Application of Land Act 1994**

- (1) State land is held and may be disposed of under the *Land Act 1994*.
- (2) However, the university may grant an interest in State land only by way of lease.
- (3) Despite the *Land Act 1994*, a trustee lease or sublease for land under that Act that is subject to an operational reserve or operational deed of grant in trust may be for up to 100 years.
- (4) Subsection (5) applies if the purpose for which a reserve was dedicated or for which land was granted in trust under the *Land Act 1994* includes a reference to—
  - (a) 'university'; or
  - (b) 'university and college'.

- 
- (5) The purpose is taken to include anything that is consistent with the university's functions under section 5.
- (6) Subsections (4) and (5) apply whether the reserve was dedicated or the land was granted in trust before or after the commencement of this section.
- (7) In this section—  
*operational deed of grant in trust* see the *Land Act 1994*, section 61(6).  
*operational reserve* see the *Land Act 1994*, schedule 6.

### **Division 3                      Finance**

#### **50            University is statutory body under the Financial Accountability Act 2009**

To remove any doubt, it is declared that the university is a statutory body under the *Financial Accountability Act 2009*.

#### **51            University is statutory body under the Statutory Bodies Financial Arrangements Act 1982**

- (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*.

#### **52            Trust funds**

The university may establish or administer trust funds.

### **53 Investment common fund**

- (1) The university may establish an investment common fund for the collective investment of trust funds or other amounts held by it.
- (2) The university may add amounts to or withdraw amounts from the investment common fund, without incurring any liability for breach of trust.
- (3) The university must periodically distribute the income of the investment common fund among each of the funds forming the investment common fund (a *component fund*) having regard to the share of each component fund in the investment common fund.
- (4) Despite subsection (3), if a component fund consists of an amount received for use for a stated purpose and the amount can not or will not be used for the purpose immediately, income attributable to the share of the amount in the investment common fund may be paid into the general funds of the university if the income is not needed immediately for the stated purpose.
- (5) Also, despite subsection (3), the university may—
  - (a) add a part of the income of the investment common fund to the fund's capital; or
  - (b) use a part of the income to establish or augment another fund to make provision against capital depreciation or reduction of income.

### **54 Application of revenue**

- (1) Subject to the terms of a relevant trust, amounts received by the university from any source are to be applied solely to university purposes.
- (2) To remove any doubt, each of the following purposes is a university purpose—

- (a) enabling a student or staff member, or former student or staff member, of the university to undertake study or research at the university or elsewhere;
- (b) the advancement of learning generally;
- (c) helping a body affiliated or associated with the university.

## **55 Financial review**

- (1) The council must, in each year, adopt a budget for the university for the next year.
- (2) In framing the budget the council need not take account of amounts mentioned in subsection (4).
- (3) The council must control its spending as nearly as possible within the limits of the approved budget.
- (4) The council must undertake an annual review of—
  - (a) amounts available, or expected to be available, to the university by way of bequest, donation or special grant; and
  - (b) the spending of the amounts.

## **56 University's financial year**

The university's financial year is a calendar year.

# **Part 7 Miscellaneous**

## **61 Forming and taking part in corporations**

- (1) The university may be a member of, form, take part in forming or manage a corporation whose objects include any of the following—
  - (a) making available facilities for study, research or education;

- (b) providing teaching, research, development, consultancy or other services for public or private entities;
  - (c) helping or engaging in the development or promotion of the university's research or the application or use of the results of the research;
  - (d) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audiovisual material or computer software;
  - (e) exploiting commercially a facility or resource of the university, including, for example, study, research or knowledge, or the practical application of study, research or knowledge, developed by or belonging to the university, whether alone or with someone else;
  - (f) seeking or encouraging gifts to the university or for the university's purposes;
  - (g) another object, consistent with this Act, that the council considers is appropriate in the circumstances.
- (2) The university, or a corporation managed by the university or of which the university is a member, may enter into an agreement or arrangement with a corporation whose objects include an object mentioned in subsection (1) for achieving the object.
- (3) This section applies despite the Corporations Act.

## **62 Use of facilities and staff**

The university may enter into a contract or other arrangement with an entity for the use of the university's facilities and the provision of services by the university's staff.

## **62A Protection from liability**

- (1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

- (2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the university.

## **62B Report about person's criminal history**

- (1) To decide whether to recommend to the Governor in Council a person for appointment under section 14(2) or 22E as an appointed member, the Minister may ask the commissioner of the police service for—
- (a) a written report about the person's criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) To decide whether a person is eligible to be the chancellor, vice-chancellor or chairperson, or an elected or additional member, the council may ask the commissioner of the police service for—
- (a) a written report about the person's criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (3) The commissioner of the police service must comply with a request under subsection (1) or (2).
- (4) However, the Minister or council may make a request about a person under subsection (1) or (2) only if the person has given the Minister or council written consent for the request.
- (5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (6) The Minister or council must ensure that a report given to the Minister or council under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (7) In this section—

*criminal history*, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

## **62C Delegation by Minister**

The Minister may delegate the Minister's power under section 62B(1) to an appropriately qualified officer of the department.

## **62D Requirement to disclose particular matters**

- (1) This section applies if a person who is a member—
  - (a) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
  - (b) is convicted of an indictable offence mentioned in section 24(1)(i) or 40C(1)(b).
- (2) The person must, unless the person has a reasonable excuse, immediately give notice of the disqualification or conviction to—
  - (a) if the person is the chancellor when disqualified or convicted—the vice-chancellor; or
  - (b) if the person is an appointed member when disqualified or convicted—the Minister; or
  - (c) otherwise—the chancellor.

Maximum penalty—100 penalty units.
- (3) The notice must include the following information—
  - (a) if the notice is of the person's disqualification—
    - (i) the existence of the disqualification; and
    - (ii) when the disqualification took effect; and
    - (iii) sufficient details to identify the grounds for the disqualification;
  - (b) if the notice is of the person's conviction—



- (i) the existence of the conviction; and
  - (ii) when the offence was committed; and
  - (iii) sufficient details to identify the offence; and
  - (iv) the sentence imposed on the person.
- (4) The Minister, chancellor or vice-chancellor must ensure a notice given to the Minister, chancellor or vice-chancellor under this section is destroyed as soon as practicable after it is no longer needed for the purposes of this Act.

## **62E Restrictions on disclosing protected information**

- (1) This section applies to a person who possesses protected information because the person is or was—
- (a) the Minister; or
  - (b) a member; or
  - (c) a person involved in the administration of this Act, including, for example, as a public service employee; or
  - (d) a person helping the Minister, the council or a member to perform a function under this Act, including by providing administrative or other support.
- (2) The person must not, directly or indirectly, disclose the protected information to another person unless the disclosure is permitted under subsection (3) or (4).

Maximum penalty—100 penalty units.

- (3) The person may disclose the protected information to another person—
- (a) to the extent necessary to perform the person's functions under this Act; or
  - (b) if the disclosure is authorised under an Act; or
  - (c) if the disclosure is otherwise required or permitted by law; or
  - (d) if the person to whom the information relates consents to the disclosure; or

- (e) if the disclosure is in a form that does not identify the person to whom the information relates; or
  - (f) if the information is, or has been, lawfully accessible to the public.
- (4) Also, without limiting subsection (3), the Minister, chancellor or vice-chancellor may disclose the protected information to any of the following to the extent necessary for the proper performance of the council's functions—
- (a) the council;
  - (b) a committee of the council;
  - (c) a member;
  - (d) another person.
- (5) In this section—
- function* includes power.
- perform*, a function, includes exercise a power.
- protected information* means—
- (a) a report, or information contained in a report, given under section 62B; or
  - (b) a notice, or information contained in a notice, given under section 62D.

## **63 Control of traffic and conduct on university land**

Schedule 1 has effect.

## **64 Regulation-making power**

The Governor in Council may make regulations under this Act.

## 65 Repealed Act references

In an Act or document, a reference to the *James Cook University of North Queensland Act 1970* may, if the context permits, be taken to be a reference to this Act.

# Part 8 Repeal and transitional provisions

## Division 1 Repeal provision

### 67 Repeal

The James Cook University of North Queensland Act 1970 No. 19 is repealed.

## Division 2 Transitional provisions for the University Legislation Amendment Act 2005

### Subdivision 1 Preliminary

### 68 Definitions for div 2

In this division—

*commencement* means the commencement of the provision in which the term is used.

*new additional member* see section 74.

*new appointed members* see section 70(2).

*pre-amended Act* means this Act as in force before the commencement of the *University Legislation Amendment Act 2005*, part 4.

## **Subdivision 2      Provisions about council membership**

### **69      Continuation of official members**

Despite section 13, a person who was an official member under section 13(2)(c), (e) or (f) of the pre-amended Act continues as an official member until the new appointed members' terms of office start.

### **70      Appointment of new appointed members**

- (1) The Minister must, within 1 year after the commencement, recommend to the Governor in Council 8 persons for appointment, under section 14(2), as appointed members.
- (2) The Governor in Council may appoint the persons as appointed members (the *new appointed members*).

### **71      Continuation, and term of office, of appointed members**

- (1) This section applies to a person who was an appointed member immediately before the commencement.
- (2) Despite section 14(1), the person continues as an appointed member until—
  - (a) the person's term of office ends under subsection (3); or
  - (b) the person's office sooner becomes vacant.
- (3) Despite section 18, the person's term of office ends when the new appointed members' terms of office start.

### **72      Continuation of elected members**

- (1) This section applies to a person who was an elected member immediately before the commencement.
- (2) Despite section 15(1) and (2), the person continues as an elected member until—

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- (a) the person's term of office ends under section 73; or
  - (b) the person's office sooner becomes vacant.
- (3) Despite section 19(1) and (2), the person's term of office is 3 years.

### **73 Ballot, and term of office, for elected members**

- (1) At least 14 days before the new appointed members are appointed, a ballot under section 15(3) of the post-amended Act must be conducted for elected members.
- (2) Subsection (3) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(a) of the pre-amended Act.
- (3) The person's term of office ends when the person who is the member's successor is elected under the ballot.
- (4) Subsection (5) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(b) of the pre-amended Act.
- (5) The person's term of office ends when the elected members mentioned in section 15(2)(b) of the post-amended Act are elected under the ballot.
- (6) Subsection (7) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(c) of the pre-amended Act.
- (7) The person's term of office ends when the elected member mentioned in section 15(2)(c) of the post-amended Act is elected under the ballot.
- (8) Subsection (9) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(d) of the pre-amended Act.
- (9) The person's term of office ends when the elected members mentioned in section 15(2)(f) of the post-amended Act are elected under the ballot.

[s 74]

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- (10) A person is taken to be elected under the ballot when the new appointed members' terms of office start.
- (11) Despite section 19(3), the term of office of a person elected under the ballot starts when the new appointed members' terms of office start.
- (12) Subsections (3), (5), (7) and (9) apply despite section 72(3).
- (13) In this section—  
*post-amended Act* means this Act as in force after the commencement of the *University Legislation Amendment Act 2005*, part 4.

#### **74 Appointment of new additional member**

The council must, within 1 year after the commencement, appoint a person as the additional member (the *new additional member*) under section 16.

#### **75 Continuation, and term of office, of additional members**

- (1) A person who was an additional member immediately before the commencement continues as an additional member until—
  - (a) the person's term of office ends under subsection (2); or
  - (b) the person's office sooner becomes vacant.
- (2) Despite section 20, the person's term of office ends when the new additional member's term of office starts.

#### **76 Council need not include additional members**

Despite section 12, the council need not include an additional member before the new additional member's term of office starts.

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**77 Dealing with casual vacancy in office of elected member**

- (1) This section applies if a casual vacancy arises in the office of an elected member after the commencement and before the ballot mentioned in section 73(1) is conducted.
- (2) For appointing or electing a person to the office, the pre-amended Act continues to apply as if the *University Legislation Amendment Act 2005*, part 4, had not commenced.

**Subdivision 3 Constitution of council**

**78 Constitution of council**

- (1) This section applies until the new appointed members' terms of office start.
- (2) Despite section 17, the council is taken to be properly constituted when it has 15 or more members, whether they be additional, appointed, elected or official members.

**Division 3 Transitional provisions for University Legislation Amendment Act 2017**

**79 Definitions for division**

In this division—

*previous*, for a provision of this Act, means the provision as in force from time to time before the commencement.

*transition period* means the period—

- (a) starting when the council passes its first membership resolution; and
- (b) ending when the membership resolution has taken effect for each membership class.

## **80 Particular references to council election**

A reference in the following provisions to a council election includes a reference to a ballot under previous section 15(3)—

- (a) section 20A(2) and (3)(a);
- (b) section 22O(2) and (3)(a);
- (c) schedule 2, definition *elected member*.

## **81 Majority required for first membership resolution**

- (1) This section applies for the passing of the first resolution under section 22J.
- (2) Despite section 22J(7), the resolution must be passed by at least two-thirds of the total number of members provided for under sections 13 to 16 as in force immediately before the resolution is voted on.

## **82 Council must give Minister notice of first membership resolution**

- (1) The council must, after passing the first membership resolution, give the Minister a notice stating—
  - (a) the number stated in the resolution for appointed members; and
  - (b) the date the resolution was passed.
- (2) The notice must be given at least 6 months before the earliest end day of the appointed members who hold office when the membership resolution is passed.

## **83 Membership and constitution of council during transition period**

- (1) A person who was an elected member mentioned in section 15(2)(f) when the council passed its first membership resolution continues to hold office as an elected member until—



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- (a) the term for which the person held office under section 19(1) ends; or
  - (b) the person's office sooner becomes vacant under section 24.
- (2) Despite sections 22C(c) and 22F(1), during the transition period the council also consists of any person—
- (a) whose office as an elected member is continued under subsection (1); or
  - (b) who is appointed under section 85 to the office of an elected member mentioned in section 15(2)(f).
- (3) Despite section 22I(1)(b), the council is taken to be properly constituted during the transition period if it has the number of members provided for under section 17 as in force immediately before the start of the transition period.

**84 Convocation elected members to be disregarded for s 22J(6)(a)**

During the transition period, the following persons must be disregarded in calculating the number of elected members for section 22J(6)(a)—

- (a) a person whose office as an elected member is continued under section 83(1);
- (b) a person who is appointed under section 85 to the office of an elected member mentioned in section 15(2)(f).

**85 Dealing with casual vacancy in office of convocation elected member at start of, or during, transition period**

- (1) This section applies if a casual vacancy in the office of an elected member mentioned in section 15(2)(f)—
- (a) exists at the start of the transition period; or
  - (b) arises during the transition period.

- (2) If the elected member was elected by a ballot under previous section 15(3) or at a council election, the council may appoint to the office the one person, if any, who—
  - (a) was a candidate for the office in the ballot or election; and
  - (b) was not elected; and
  - (c) received the highest number of votes of all the candidates who were not elected; and
  - (d) is eligible, under this Act, to be a member; and
  - (e) is willing to be, and available to perform the functions of, a member.
- (3) Subsection (4) applies if—
  - (a) the elected member was not elected by a ballot under previous section 15(3) or at a council election; or
  - (b) no-one is eligible for appointment under subsection (2).
- (4) The council may appoint to the office a member of the convocation who—
  - (a) is eligible under this Act to be a member; and
  - (b) otherwise meets any nomination requirements under the election policy for the class of elected members mentioned in section 15(2)(f).
- (5) A person appointed under this section—
  - (a) is appointed for the balance of the term of office of the person's predecessor; and
  - (b) is taken, other than for subsection (2) or (3)(a), to have been elected at a council election.

## **86 Repeal of university statutes**

- (1) This section applies to a university statute made under previous section 57 that was in force immediately before the commencement.

- (2) To remove any doubt, it is declared that, on the commencement, the university statute is repealed.

## **Schedule 1            Control of traffic and conduct                                  on university land**

section 63

### **Part 1                    Authorised persons and                                  security officers**

#### **1                    Appointment of authorised persons and security officers**

- (1) The vice-chancellor may, in writing, appoint a person who the vice-chancellor is satisfied has the necessary training, or knowledge and experience, to be an authorised person under this Act.
- (2) The vice-chancellor may, in writing, appoint a person who the vice-chancellor is satisfied has the necessary training, or knowledge and experience, to be a security officer under this Act.
- (3) A person may be appointed both an authorised person and a security officer.

#### **1A                  Limitation of authorised person's or security officer's powers**

The powers of an authorised person or a security officer may be limited—

- (a) under a condition of appointment; or
- (b) by notice of the vice-chancellor given to the authorised person or security officer.

#### **2                    Terms of appointment**

- (1) An authorised person or security officer holds office on the conditions stated in the instrument of appointment.
- (2) An authorised person or security officer—

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- (a) if the appointment provides for a term of appointment—ceases to hold office as an authorised person or security officer at the end of the term; and
  - (b) may resign by signed notice given to the vice-chancellor.

### **3 Identity cards**

- (1) The vice-chancellor must issue an identity card to each authorised person and security officer.
- (2) The identity card must—
  - (a) contain a recent photograph of the authorised person or security officer; and
  - (b) be in a form approved by the vice-chancellor; and
  - (c) be signed by the authorised person or security officer.
- (3) A person who ceases to be an authorised person or security officer must, as soon as practicable, return the person's identity card to the vice-chancellor, unless the person has a reasonable excuse for not returning it.

Maximum penalty for subsection (3)—10 penalty units.

### **4 Proof of authority**

- (1) An authorised person or security officer may exercise a power under this Act in relation to someone else only if the authorised person or security officer—
  - (a) first produces his or her identity card for inspection by the other person; or
  - (b) has his or her identity card displayed so that it is clearly visible.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person or security officer must produce the identity card for inspection by the person at the first reasonable opportunity.

- (3) If subsection (2) is relevant and is complied with by an authorised person or security officer, the exercise of a power in relation to someone else by the authorised person or security officer is not invalid merely because of subsection (1).

## Part 2 Traffic control

### 5 Persons authorised to control traffic on university's land

- (1) An authorised person may control traffic on the university's land and, for this purpose, may give directions to persons on the land.
- (2) A person must not fail to comply with a direction given under subsection (1), unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (2)—10 penalty units.

### 6 Regulatory notice

- (1) The university may erect or display at or near any vehicular entrance to the university's land, a notice (a *regulatory notice*) regulating the driving, parking or standing of vehicles on the land, including, for example—
- (a) fixing a maximum speed limit; or
  - (b) indicating a pedestrian crossing; or
  - (c) indicating a place where the driving, parking or standing of a vehicle is restricted or prohibited.
- (2) A person on the university's land must comply with a regulatory notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

- (3) A regulatory notice—
- (a) must state the limits of the area to which the notice applies; and

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- (b) may state that a contravention of a requirement of the notice is an offence against the Act and the penalty for the offence.
  - (4) Without limiting subsection (1), the university may erect and display regulatory notices in the form of official traffic signs.
  - (5) Evidence that a regulatory notice was erected or displayed at a place mentioned in subsection (1) is evidence that the notice was erected or displayed by the university.
  - (6) A regulatory notice erected or displayed under this section must be easily visible to passers-by.

## **7 Information notices**

- (1) This section applies if a regulatory notice does not state that a contravention of a requirement of the notice is an offence against this Act and the penalty for the offence.
- (2) The university must erect or display at or near each vehicular entrance to the university's land to which the regulatory notice relates, and other places the vice-chancellor considers appropriate, information notices stating that a contravention of a requirement of a regulatory notice is an offence and the penalty for the offence.
- (3) An information notice may contain any other information the vice-chancellor considers appropriate.
- (4) An information notice erected or displayed under this section must be easily visible to passers-by.
- (5) In this section—  
*regulatory notice* does not include an official traffic sign.

## **8 Removal and detention of illegally parked or abandoned vehicles**

- (1) An authorised person may seize, remove and hold, a vehicle that the authorised person believes on reasonable grounds—
  - (a) is parked in contravention of a regulatory notice; or
  - (b) is abandoned.

- (2) The vehicle must be held at a safe place.
- (3) An authorised person may exercise the powers given under subsection (1)(a) only if—
  - (a) the authorised person believes on reasonable grounds that it is necessary or desirable to seize and remove the vehicle having regard to the safety and convenience of traffic on the university's land; and
  - (b) the authorised person—
    - (i) can not immediately locate the driver of the vehicle; or
    - (ii) believes on reasonable grounds that the driver of the vehicle is not willing or able to remove the vehicle immediately.
- (4) As soon as is practicable and no later than 14 days after the vehicle is seized, the university must give to the owner of the vehicle a notice stating how the owner may recover the vehicle.
- (5) If the owner can not be ascertained or located within 14 days after the vehicle is seized, the notice may be given by publishing it in a newspaper circulating generally in the State.
- (6) If the vehicle was parked in contravention of a regulatory notice, the owner of the vehicle must pay to the university the cost of seizing, removing, holding and returning the vehicle.
- (7) In this section—

**vehicle** includes a part of the vehicle and anything attached to, or contained in, the vehicle.

## **9 Disposal of unclaimed vehicles**

- (1) This section applies if the owner of a seized vehicle does not recover the vehicle within 2 months after notice is given to the owner under section 8(4) or (5).
- (2) After publishing a notice in a newspaper circulating generally in the State, the university may sell the vehicle by public auction.



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- (3) The notice must—
    - (a) identify the vehicle; and
    - (b) state that the vehicle is to be sold by auction; and
    - (c) state how the owner may recover the vehicle before the auction; and
    - (d) state the time and place of the auction.
  - (4) Compensation is not recoverable against the university for the sale of a vehicle under this section.
  - (5) In this section—

*vehicle* includes a part of the vehicle and anything attached to, or contained in, the vehicle.

## 10 Application of proceeds of sale

- (1) The proceeds of the sale must be applied in the following order—
  - (a) in payment of the reasonable expenses incurred in the sale;
  - (b) in payment of the reasonable cost of seizing, removing and holding the vehicle;
  - (c) if there is an amount owing to an entity under a security interest registered for the vehicle under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
  - (d) in payment of any balance to the owner.
- (2) Compensation is not recoverable against the university for a payment under this section.

## Part 3 Conduct on university land

### 11 Conduct causing a public nuisance

A person must not be disorderly or create a disturbance on the university's land.

Maximum penalty—20 penalty units.

## **12 Power to deal with persons causing a public nuisance**

- (1) This section applies if a security officer—
  - (a) finds a person contravening section 11; or
  - (b) finds a person in circumstances that leads the security officer to suspect on reasonable grounds that the person has just contravened section 11; or
  - (c) has information that leads the security officer to suspect on reasonable grounds that a person has just contravened section 11; or
  - (d) reasonably believes, having regard to the way a person is behaving, that the person's presence may pose a threat to the safety of someone else on, entering or leaving the land; or
  - (e) has information that leads the security officer to believe, on reasonable grounds, that a person's presence may pose a threat to the safety of someone else on, entering or leaving the land; or
  - (f) reasonably believes that a person is on the land without lawful justification or excuse.
- (2) The security officer may direct the person to leave the university's land or a part of the university's land.
- (3) A person must comply with a direction given to the person under subsection (2), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

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## Schedule 2      Dictionary

## section 3

***academic board*** means the academic board of the university.

***academic staff***, of the university, means—

- (a) the university's teaching and research staff other than research assistants; and
- (b) staff of the university whose instrument of appointment by the council states they are members of the academic staff.

***additional member*** means a member appointed under section 16 or 22G.

***appointed member*** means a member appointed under section 14 or 22E.

***authorised person*** means a person holding office as an authorised person because of an appointment under schedule 1, section 1.

***chairperson*** means the chairperson of the academic board.

***chancellor*** means the chancellor of the university.

***class***, of elected members, for part 2, division 3A, see section 22F(1).

***college*** includes a university institution.

***commencement***, for part 8, division 2, see section 68.

***conduct obligation***, in relation to a member, means an obligation that—

- (a) is stated in the university's approved code of conduct under the *Public Sector Ethics Act 1994*; and
- (b) must be complied with by the member.

***conviction*** means a conviction other than a spent conviction.

***convocation*** means the convocation of the university.

**council** means the council of the university.

**council election** means an election held under part 2, division 3C.

**current membership resolution**, for part 2, division 3A, see section 22A.

**deputy chancellor** means the deputy chancellor of the university.

**designated purpose** see section 42.

**donor's purpose** see section 42.

**effective day**, for part 2, division 3A, see section 22J(5).

**elected member** means a member elected at a council election.

**election policy** see section 26AA(1)(a).

**eligible person**, for a class of elected members mentioned in section 15(2)(a) to (f) or 22F(1)(a) to (c), means a person who is—

- (a) for the class mentioned in section 15(2)(a) or 22F(1)(a)—a member of the academic staff of the university; or
- (b) for the class mentioned in section 15(2)(b) or 22F(1)(b)—a member of the professional and technical staff of the university; or
- (c) for the class mentioned in section 15(2)(c), (d) or (e) or 22F(1)(c)—a student; or
- (d) for the class mentioned in section 15(2)(f)—a member of the convocation.

**end day**, of a member, see section 22A.

**higher education award** see the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth), section 5.

**land**, of the university, means land and buildings owned by or under the control of the university.

**member** means a member of the council.

**membership class** see section 22A.

**membership resolution** see section 22A.

**new additional member**, for part 8, division 2, see section 68.

**new appointed members**, for part 8, division 2, see section 68.

**nomination requirements** means requirements for eligibility to be nominated as a candidate in a council election.

**notice** means written notice.

**official member** means an official member under section 13 or 22D.

**official traffic sign** has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

**owner**, of a vehicle, includes the person registered as the owner of the vehicle under—

- (a) the *Transport Operations (Road Use Management) Act 1995*; or
- (b) the corresponding law of another State or a Territory.

**pre-amended Act**, for part 8, division 2, see section 68.

**previous membership resolution**, for part 2, division 3A, see section 22A.

**professional and technical staff**, of the university, means the staff of the university other than its academic staff.

**regulatory notice** see schedule 1, section 6.

**requirement**, of a regulatory notice, includes a direction on the notice.

**security officer** means a person holding office as a security officer because of an appointment under schedule 1, section 1.

**spent conviction** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

***staff association*** means the industrial union or other entity that represents members of the academic staff on industrial matters.

***State land*** means land—

- (a) granted in trust, or reserved and set apart for a purpose, under the *Land Act 1994*; and
- (b) vested in or placed under the control of the university.

***student*** means a student enrolled in the university.

***total number of members***, in relation to a membership resolution, for part 2, division 3A, see section 22J(1)(a).

***union*** means the James Cook University Union.

***university*** means the James Cook University.

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

***vice-chancellor*** means the vice-chancellor of the university.