

UNIVERSITY OF SOUTHERN QUEENSLAND ACT

No. 99 of 1989

ANALYSIS OF CONTENTS

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Repeal of Part III
4. Interpretation

PART II—UNIVERSITY

Division 1—Constitution and Government of the University

Subdivision 1—The University

5. Establishment and incorporation of the University
6. Functions and powers of the University

Subdivision 2—The Council

7. The Council
8. Constitution of the Council other than first Council
9. Assumption of office by members of the Council

Subdivision 3—Convocation

10. Constitution of Convocation
11. Functions of Convocation

Subdivision 4—The University of Southern Queensland Student Association

12. University of Southern Queensland Student Association
13. Composition and role of the Student Association
14. Constitution of the Student Association
15. Statutes affecting the Student Association

Division 2—Administrative Provisions

Subdivision 1—Administrative Provisions Relating to the Council

16. Council deemed to be duly constituted
17. Term of appointment
18. Failure to elect or appoint
19. Eligibility for re-appointment
20. Disqualification from office
21. Vacation of office
22. Vacancy on the Council from expiry of term of appointment
23. Casual vacancies on the Council
24. Temporary replacement of member
25. Election of Chancellor
26. Election of Deputy Chancellor
27. Chairmanship of the Council
28. Appointment of Vice-Chancellor
29. Quorum of the Council
30. Re-election or re-appointment
31. Validity of proceedings
32. Powers of the Council
33. Delegation by the Council

Subdivision 2—Administrative Provisions Relating to Convocation

34. Powers, authorities and duties
35. Meetings of Convocation
36. Warden of Convocation
37. Chairmanship of Convocation
38. Officers of Convocation
39. Standing committees and other committees
40. Quorum of Convocation
41. Re-election or re-appointment
42. Validity of proceedings

Subdivision 3—Regulations, Statutes and Rules

43. Regulations
44. Statutes
45. Statutes to be approved by Governor in Council

Subdivision 4—Provisions Relating to Companies, Joint Agreements and Arrangements, Agreements for Use of Facilities and Staff

46. Formation of and participation in companies, etc.
47. Use of facilities and staff
48. Companies to furnish returns, etc.
49. Audit requirements

Subdivision 5—General Administrative Provisions

50. Annual Report
51. Tabling of certain subordinate legislation
52. No test of religion, politics, race or sex

Division 3—Establishment of Colleges

53. Establishment of University colleges
54. A college to be part of the University
55. Powers and functions of advisory council
56. Gifts, devises, etc., of property to or for a college

Division 4—Property and Finance

57. Budget
58. Application of revenue by the University
59. Financial accommodation
60. University may accept gifts, etc., subject to conditions, and establish trust funds
61. Powers of investment
62. Variation of terms of trusts and gifts
63. Amendment of approved scheme
64. Provisions relating to approved schemes
65. Accounts and Audit
66. Superannuation scheme or arrangement

Division 5—Transitional and Special Arrangements

Subdivision 1—Cessation of the University College of Southern Queensland

67. University College of Southern Queensland to cease to exist

Subdivision 2—Provisions Relating to the University College of Southern Queensland

68. Council of the University College of Southern Queensland to cease to exist
69. Effect of cessation of the University College of Southern Queensland
70. Employment of staff of the Council of the University College of Southern Queensland
71. Superannuation entitlements

Subdivision 3—Provisions Relating to the University College of Southern Queensland Student Association and the Student Association

72. University College of Southern Queensland Student Association to cease to exist
73. Provisions relating to the University College of Southern Queensland Student Association
74. Officers of the University College of Southern Queensland Student Association
75. Constitutional arrangements

Subdivision 4—Provisions for First Council

76. Constitution of the first Council of the University
77. Appointment of first Vice-Chancellor
78. Election of Chancellor and Deputy Chancellor
79. Casual vacancies on the first Council

Subdivision 5—Provisions Relating to Students and Awards

80. Enrolment of students in courses
81. Awards

Subdivision 6—General Provisions

82. Compliance with accounts and audit requirements
83. Compliance with annual reporting requirements
84. Savings
85. Statutes and rules to continue in existence
86. Construction of references
87. Governor in Council may prescribe

PART III—UNIVERSITY COLLEGE OF SOUTHERN QUEENSLAND

Division 1—Preliminary

88. Interpretation

Division 2—Constitution and Government of the University College of Southern Queensland

Subdivision 1—The University College of Southern Queensland

- 89. Establishment and incorporation of the University College
- 90. Functions and powers of the University College

Subdivision 2—The Council of the University College of Southern Queensland

- 91. The Council of the University College
- 92. Constitution of the Council of the University College other than the first Council of the University College
- 93. Assumption of office by members of the Council of the University College

Subdivision 3—The University College of Southern Queensland Student Association

- 94. University College of Southern Queensland Student Association
- 95. Composition and role of the Association
- 96. Constitution of the Association
- 97. Statutes affecting the Association

Division 3—Administrative Provisions

Subdivision 1—Administrative Provisions Relating to the Council of the University College

- 98. Council of the University College deemed to be duly constituted
- 99. Term of appointment
- 100. Failure to appoint, elect or nominate
- 101. Eligibility for re-appointment
- 102. Disqualification from office
- 103. Vacation of office
- 104. Vacancy on the Council of the University College from expiry of term of appointment
- 105. Casual vacancies on the Council of the University College
- 106. Temporary replacement of member
- 107. Election of Chancellor of the University College
- 108. Election of Deputy Chancellor of the University College
- 109. Chairmanship of the Council of the University College
- 110. Appointment of Vice-Chancellor
- 111. Quorum of the Council of the University College
- 112. Re-election or re-appointment
- 113. Validity of proceedings
- 114. Powers of the Council of the University College
- 115. Delegation by the Council of the University College

Subdivision 2—Regulations, Statutes and Rules

- 116. Regulations
- 117. Statutes
- 118. Statutes to be approved by Governor in Council

Subdivision 3—Provisions Relating to Companies, Joint Agreements and Arrangements, Agreements for Use of Facilities and Staff

- 119. Formation of and participation in companies, etc.
- 120. Use of facilities and staff
- 121. Companies to furnish returns, etc.
- 122. Audit requirements

Subdivision 4—General Administrative Provisions

- 123. Annual Report
- 124. Tabling of certain subordinate legislation
- 125. No test of religion, politics, race or sex

Division 4—Property and Finance

- 126. Budget
- 127. Application of revenue by the University College
- 128. Financial accommodation
- 129. University College may accept gifts, etc., subject to conditions, and establish trust funds
- 130. Powers of investment
- 131. Variation of terms of trusts and gifts
- 132. Amendment of approved scheme
- 133. Provisions relating to approved schemes
- 134. Accounts and Audit
- 135. Superannuation scheme or arrangement

Division 5—Transitional and Special Arrangements for the University College

Subdivision 1—Provisions Relating to the Institute

- 136. Institute to cease to exist

Subdivision 2—Provisions Relating to the Council of the Institute

- 137. Council of the Institute to cease to exist
- 138. Effect of cessation of the Council of the Institute
- 139. Employment of staff of the Council of the Institute
- 140. Superannuation entitlements

Subdivision 3—Provisions Relating to the Union and the Association

- 141. Union to cease to exist
- 142. Provisions relating to the Union
- 143. Officers of the Union
- 144. Constitutional arrangements

Subdivision 4—Provisions for First Council of the University College

- 145. Constitution of first Council of the University College
- 146. Appointment of first Vice-Chancellor of the University College
- 147. Election of first Chancellor and Deputy Chancellor
- 148. Casual vacancies on the first Council of the University College

Subdivision 5—Provisions Relating to Students and Awards

- 149. Enrolment of students in courses
- 150. Awards

Subdivision 6—General Provisions

151. Compliance with accounts and audit requirements
152. Compliance with annual reporting requirements
153. Savings
154. By-laws to be Statutes
155. Construction of references
156. Governor in Council may prescribe

Queensland



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

No. 99 of 1989

An Act to provide for the establishment and incorporation
of the University of Southern Queensland at
Toowoomba and for related purposes

[ASSENTED TO 13TH OCTOBER, 1989]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *University of Southern Queensland Act 1989*.

2. Commencement. (1) Section 1, this section, sections 3, 88 and 90, Divisions 3 and 4 and subdivision 4 of Division 5 of Part III and section 156 shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Section 89, subdivisions 2 and 3 of Division 2 and subdivisions 1, 2, 3 and 5 of Division 5 of Part III and sections 151 to 155, both inclusive, shall commence on 1 January 1990 or on the day this Act is assented to for and on behalf of Her Majesty, whichever of those days is the later.

(3) Sections 4 and 6, Divisions 2, 3 and 4 and subdivision 4 of Division 5 of Part II, and section 87 shall commence on a day or days appointed by Proclamation for the commencement of those provisions.

(4) Section 5, subdivisions 2, 3 and 4 of Division 1 and subdivisions 1, 2, 3 and 5 of Division 5 of Part II and sections 82 to 86, both inclusive, shall commence on the appointed day.

3. Repeal of Part III. The provisions of Part III shall be repealed on and from the commencement of section 5.

4. Interpretation. (1) In this Part and Part II, unless the contrary intention appears—

“academic staff” means such staff of the University as are determined to be academic staff in the Statutes;

“appointed day” means the day appointed by the Governor in Council under subsection (2);

“appointed member” means a member of the Council other than an *ex officio* member;

“company” includes, for the purposes of sections 5 (2) (f), 46, 48 and 49, a corporation within the meaning of the *Companies (Queensland) Code*, an association or a partnership;

“Convocation” means the Convocation of the University constituted under Part II;

“Council” means the Council of the University constituted under Part II;

“enrolled student” means a student enrolled in the University;

“first Council” means the first Council of the University constituted under subdivision 4 of Division 5 of Part II;

- “graduate” means any person to whom is granted a degree or diploma of the University;
- “higher education course” means, in the case of the University College of Southern Queensland, a course of study accredited and offered by the University College of Southern Queensland;
- “Minister” includes any Minister of the Crown for the time being performing the duties of the Minister;
- “rules” means the rules made by the Council under section 44;
- “Statutes” means the Statutes of the University made under Part II;
- “Student Association” means the University of Southern Queensland Student Association established and incorporated under Part II;
- “University” means the University of Southern Queensland established and incorporated under Part II;
- “University College of Southern Queensland” means the University College of Southern Queensland established and incorporated under Part III;
- “University College of Southern Queensland Student Association” means the University College of Southern Queensland Student Association established and incorporated under Part III;
- “vehicle” means a vehicle within the meaning of the *Traffic Act 1949-1988*.

(2) For the purposes of this Part and Part II, the Governor in Council may by Proclamation, on the recommendation of the Minister, appoint a day which in this Part and in Part II is referred to as the “appointed day”.

Prior to making his recommendation under this subsection, the Minister must consult with and have regard to the views of a person or persons selected by the Minister in relation to the date of the establishment and incorporation of the University pursuant to section 5.

PART II—UNIVERSITY

Division 1—Constitution and Government of the University

Subdivision 1—The University

5. Establishment and incorporation of the University. (1) A University to be known as the University of Southern Queensland consisting of—

- (a) the Council;
- (b) the enrolled students;
- (c) the graduates of the University;
- (d) the members of the academic staff and other staff,

is hereby established at Toowoomba in the State of Queensland.

(2) The University shall be a body corporate under the name of the "University of Southern Queensland" and by that name shall have perpetual succession, a common seal and be capable of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction, all debts or sums of money due to it;
- (c) taking, acquiring by grant, purchasing, taking on lease, property (whether situated in Queensland or elsewhere);
- (d) surrendering to the Crown, granting, selling, alienating, leasing, assigning and transferring, property (whether situated in Queensland or elsewhere);
- (e) accepting gifts, grants, bequests or devises and creating and administering trust funds;
- (f) causing the formation of companies, and becoming a member of or managing any company or companies for any purpose which may seem directly or indirectly calculated to further the objects, functions or powers of the University or to benefit the University in any way whatsoever;
- (g) doing and suffering all other acts and things that bodies corporate may by law do and suffer.

6. Functions and powers of the University. (1) The functions of the University shall be—

- (a) to provide courses of study appropriate to a university and to provide courses of study or instruction at such levels of attainment as the Council deems proper to meet the needs of the community;
- (b) to disseminate knowledge and to promote scholarship appropriate to a university;
- (c) to encourage by study, research and other means the advancement and development of knowledge;
- (d) to encourage by study, research and other means the advancement and development of technology and the practical application of such technology to Government, industry, commerce and the community;
- (e) subject to the Statutes, to award and confer degrees, diplomas and other awards;
- (f) to encourage and provide facilities for study and research generally;
- (g) to provide educational facilities at university standard for persons seeking the benefits of such facilities who, being eligible, are permitted by the University to use such facilities;
- (h) to provide facilities and resources for the welfare of staff and students;
- (i) to establish such facilities as the University deems desirable for providing courses of study or instruction at such levels

of attainment as the Council deems proper to meet the special needs of the community;

- (j) to exploit commercially, for the benefit of the University, any facility or resource of the University including any study, research or knowledge, or the practical application thereof, developed by or belonging, whether alone or in conjunction with any other person or body, to the University.

(2) For the purpose of discharging the functions of the University, the Council shall have and may exercise such powers and authorities as are incidental to the proper discharge by the University of any of its functions under this Act, including but not limited to the powers and authorities to—

- (a) acquire by purchase, lease or otherwise, land, whether improved or not, for staff and student residential purposes;
- (b) erect on lands of the University, whether acquired for that purpose or not, buildings suitable for staff and student residential purposes;
- (c) enter into arrangements with any other person or body for the provision of student and staff residential accommodation;
- (d) establish such organizational sections or units as it sees fit;
- (e) assist students enrolled at the University by means of loan, grant or benefit in kind to such students.

Subdivision 2—The Council

7. The Council. (1) There shall be a Council of the University which shall have and may exercise and discharge the functions, powers, authorities and duties conferred or imposed upon it by or under this Act.

(2) The Council shall be the governing body of the University.

8. Constitution of the Council other than first Council. (1) Subject to subsection (2), the Council, other than the first Council, shall consist of—

- (a) the Chancellor of the University, who shall be an *ex officio* member;
- (b) the Vice-Chancellor of the University, who shall be an *ex officio* member;
- (c) the Director-General of Education, or his nominee, who shall be an *ex officio* member;
- (d) three members who are members of the full-time academic staff of the University, elected by members of that staff in the manner prescribed by the Statutes;
- (e) one member who is a member of the full-time staff of the University, other than the academic staff, elected by members of that staff in the manner prescribed by the Statutes;
- (f) two members, each of whom is an enrolled student of the University, elected or appointed in the manner prescribed by the Statutes;
- (g) two members who are members of Convocation, neither of whom shall be a full-time staff member or enrolled student

of the University, appointed by and from Convocation in the manner prescribed by the Statutes;

(h) eight members appointed by the Governor in Council.

(2) The Council as constituted for the time being may from time to time appoint members, but so that—

(a) the number of persons so appointed shall not, at any one time, exceed two;

(b) a person whose sole or principal employment is in connexion with his duties as a member of the full-time staff of the University shall not be appointed a member of the Council under this subsection;

(c) a person who is an enrolled student shall not be appointed a member of the Council under this subsection.

9. Assumption of office by members of the Council. The members of the Council constituted in accordance with section 8 shall assume office on a day appointed for that purpose by the Governor in Council by Proclamation published in the *Gazette*.

Subdivision 3—Convocation

10. Constitution of Convocation. There shall be a Convocation of the University which shall consist of—

(a) all members and past members of the Council, the Council of the University College of Southern Queensland and the Council of the Darling Downs Institute of Advanced Education established under the *Education Act 1964-1989*;

(b) all graduates of the University enrolled as members of Convocation in the register of graduates in accordance with the provisions of the Statute relating to such register and all graduates of the University College of Southern Queensland and the Darling Downs Institute of Advanced Education established under the *Education Act 1964-1989*;

(c) all members of the full-time academic staff of the University and such other members or classes of members of the staff of the University as the Statutes may prescribe;

(d) such graduates of other universities, or other persons or classes of persons, as are in accordance with the Statutes, admitted as members of Convocation.

11. Functions of Convocation. (1) The members of Convocation shall be entitled to elect or appoint, in the manner prescribed by the Statutes, such members of the Council as are prescribed by this Act.

(2) The members of Convocation may, at meetings held by them in accordance with the Statutes, consider any matters relating to the University and its affairs and administration and may make recommendations to the Council in respect of any such considerations.

(3) Convocation shall have any additional functions as may be prescribed by the Statutes.

Subdivision 4—The University of Southern Queensland Student Association

12. University of Southern Queensland Student Association. (1) There shall be a University of Southern Queensland Student Association.

(2) The Student Association shall be a body corporate under the name of the “University of Southern Queensland Student Association” and by that name shall have perpetual succession, a common seal and be capable of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction all debts or sums of money due to it;
- (c) taking, acquiring by grant, purchasing, taking on lease, property (whether situated in Queensland or elsewhere);
- (d) accepting gifts, grants, bequests or devises and creating and administering trust funds;
and
- (e) doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

13. Composition and role of the Student Association. (1) All persons as shall be defined by its constitution shall be eligible for membership of the Student Association.

(2) The Student Association shall be an organized association of such students and other members for the furthering of the objects of the Student Association as defined by its constitution.

(3) The Student Association shall have such role and other powers and authorities and be subject to such obligations as shall, from time to time, be prescribed by or under the Statutes.

(4) It is not the intention of this subdivision that the Student Association shall be, or shall be regarded as, for any purpose, the servant or agent of the Council or the University.

14. Constitution of the Student Association. The constitution of the Student Association and all amendments thereto or alterations or modifications thereof shall be submitted to the Council and shall have no force or effect unless and until approved by the Council.

15. Statutes affecting the Student Association. Except in the case of emergency (of which the Council shall be sole judge), the Council shall submit to the Student Association a draft of any proposed Statute affecting the powers, authorities or obligations of the Student Association and shall consider any representations the Student Association may make thereon.

Division 2—Administrative Provisions

Subdivision 1—Administrative Provisions Relating to the Council

16. Council deemed to be duly constituted. The Council shall be deemed to be duly constituted and shall discharge its duties and functions

and may exercise its powers and authorities notwithstanding that a member or members have not been appointed or elected as contemplated by section 8 (1) (d), (e), (f), (g) or (h) and notwithstanding any vacancy on the Council provided the number of members of the Council for the time being is not less than 10.

17. Term of appointment. (1) The appointed members of the Council appointed or elected as contemplated by section 8 (1) (d), (e), (f), (g) and (h) shall, subject to this Act, hold office for a period of three years.

(2) The term of appointment of a member of the Council appointed pursuant to section 8 (2) shall, subject to this Act, expire on a date determined by the Council at the time of his appointment but shall not, in any case, exceed three years from the date of his appointment.

(3) (a) Notwithstanding subsections (1) and (2), the Governor in Council, acting on the advice of the Minister and in the interests of uniformity of expiry dates, may reduce the term of appointment of any appointed member of Council.

(b) A term of appointment so reduced pursuant to subsection (3) (a) shall expire on the date specified by the Governor in Council, and a vacancy on the Council within the meaning of section 22 shall result.

18. Failure to elect or appoint. If a body or persons permitted or required by section 8 (1) to appoint or elect a person or number of persons to be a member or members of the Council fails or refuses to appoint or elect a sufficient number of such persons by a date determined by the Council, the Minister may appoint a sufficient number of persons who shall be deemed to have been appointed or elected by the body or persons who could or should have appointed or elected him or them.

19. Eligibility for re-appointment. The appointed members of the Council shall, if otherwise qualified, be eligible for re-appointment: Provided that a person shall not be eligible to be a member of the Council, in the same capacity, for more than two consecutive terms of appointment, without the approval of the Minister first had and obtained.

20. Disqualification from office. (1) It is not competent to a person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (b) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission which if done or made by him in Queensland would have constituted an indictable offence, unless the Council is of the opinion that the circumstances of the offence do not warrant disqualification from office;
or
- (c) is a patient within the meaning of the *Mental Health Services Act 1974-1987*,

to become or continue to be a member of the Council.

(2) It is not competent to a person who ceases to hold the office or qualification essential to his appointment or election as a member of the Council in terms of section 8 (1) (d), (e), (f) or (g) or of section 8 (2) to continue to be a member of the Council in terms of the relevant provisions of that section.

21. Vacation of office. An appointed member shall be deemed to have vacated his office as an appointed member if—

- (a) he dies;
 - (b) he is absent, without leave granted by the Council, from every meeting of the Council, of which due notice has been given to him, in any period of six months;
 - (c) he resigns his office by writing under his hand delivered to the Chancellor;
- or
- (d) he becomes an *ex officio* member.

22. Vacancy on the Council from expiry of term of appointment. In the event of a vacancy in the membership of the Council arising from the expiration of an appointed member's term of appointment, a member shall be appointed or elected as provided in this Act or, in the case of a member appointed pursuant to section 8 (2), may be appointed as provided in this Act.

23. Casual vacancies on the Council. In the event of a casual vacancy in the office of an appointed member of the Council, a member shall be appointed or elected—

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

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

24. Temporary replacement of member. If—

- (a) an appointed member of the Council is or may be prevented by absence, illness or other cause whatsoever, from performing his duties as a member of the Council;
- and
- (b) the person who, or the executive or other group or person charged with the management of the affairs of the body which appointed or elected such member, is or are of the opinion that the member will be so prevented from performing those duties during the period during which two or more ordinary meetings of the Council may be held,

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

25. Election of Chancellor. (1) There shall be a Chancellor of the University who shall hold office for such period (not exceeding five years) and on such conditions as are prescribed by the Statutes.

(2) The Council at its first meeting after its constitution pursuant to section 8 and thereafter whenever a vacancy occurs, shall elect a Chancellor.

(3) The Chancellor may be elected from amongst the members of the Council or otherwise.

An enrolled student, a member of the academic staff or any other employee of the University shall not be elected as the Chancellor.

(4) When the person elected as Chancellor is already an appointed member of the Council at the time of his election, the office that he held as such a member shall be declared vacant, and thereupon the appropriate steps shall be taken pursuant to section 23.

(5) Notwithstanding the provisions of this section, the election of the first Chancellor of the University shall be as prescribed in section 78.

26. Election of Deputy Chancellor. (1) There shall be a Deputy Chancellor of the University who shall hold office for one year from the date of his election pursuant to subsections (2) and (3) or until the election, pursuant to subsection (2), of another Deputy Chancellor in the event of a vacancy, whichever first occurs, and on such conditions as are prescribed by the Statutes.

(2) The Council at its first meeting after its constitution pursuant to section 8 and thereafter whenever a vacancy occurs, shall elect a Deputy Chancellor.

(3) The Council shall elect one of its members to be Deputy Chancellor.

(4) In the absence of the Chancellor or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor shall have all the powers and duties of the Chancellor.

(5) Notwithstanding the provisions of this section, the election of the first Deputy Chancellor of the University shall be as prescribed in section 78.

27. Chairmanship of the Council. (1) The Chancellor shall be the chairman of the Council and shall preside at all meetings of the Council at which he is present.

(2) At any meeting of the Council at which the Chancellor is not present—

(a) the Deputy Chancellor;

or

(b) where the Deputy Chancellor is not present, a member of the Council elected by and from the members present,

shall preside.

28. Appointment of Vice-Chancellor. (1) The Council shall appoint a person to be Vice-Chancellor who, on and from the date of assuming such office, shall be an officer of the University.

(2) Whenever a vacancy occurs in the office of Vice-Chancellor, the Council shall, subject to subsections (4) and (5), appoint a person to be Vice-Chancellor.

(3) Subject to subsection (4), the Vice-Chancellor shall be appointed for such period and on such conditions as the Council determines.

(4) Any appointment made under this section and the period and conditions of such an appointment, other than an appointment made under subsection (5), shall be of no force and effect unless and until the same are approved by the Governor in Council.

(5) The Council may, during any vacancy in the office of Vice-Chancellor or during any absence of the Vice-Chancellor or inability of the Vice-Chancellor to perform the duties of his office as such, appoint a person to be Acting Vice-Chancellor for such period and on such conditions as the Council determines provided that the period of any such appointment shall not exceed 12 months.

Any person appointed under this subsection shall, during the term of his appointment, possess all the powers and perform all the duties of the Vice-Chancellor.

(6) The Vice-Chancellor shall be the chief executive officer of the University and shall possess such powers and perform such duties as the Statutes prescribe or, subject to the Statutes, as the Council determines.

(7) Notwithstanding the provisions of this section, the appointment of the first Vice-Chancellor of the University shall be as prescribed in section 77.

(8) (a) Subject to section 33, the Vice-Chancellor may, either generally or otherwise as provided by the instrument of delegation, by instrument in writing under his hand, delegate to any officer of the University who, for the time being holds or performs the duties of any office, or any other person all or any of the powers or functions, except this power of delegation, incidental in the discharge of the responsibilities of the Vice-Chancellor.

(b) A delegation of a power or function may be made subject to conditions and limitations or absolutely and shall not prejudice the

making by the Vice-Chancellor of other delegations of the same power or function.

(c) A delegate to whom a power or function has been so delegated may, while the delegation subsists, do and suffer all such acts and things in accordance with the terms of the delegation as he thinks necessary or expedient to the proper discharge of the power or function.

(d) An act or thing done or suffered by a delegate acting in accordance with a delegation has the same force and effect as if the act or thing had been done or suffered by the Vice-Chancellor.

(e) A delegation of a power or function incidental in the discharge of a responsibility of the Vice-Chancellor shall not—

(i) affect the exercise or discharge of the power or function by the Vice-Chancellor;

or

(ii) relieve the Vice-Chancellor from his obligation to ensure that the responsibility is properly discharged.

29. Quorum of the Council. At any meeting of the Council, a quorum shall be one-half, or if one-half is not a whole number, the whole number next higher than one-half of the total number of members for the time being of the Council.

30. Re-election or re-appointment. Subject to this Act, a person may be re-elected to the office of Chancellor or Deputy Chancellor or re-appointed to the position of Vice-Chancellor if he is otherwise capable for the time being of holding that office or position.

31. Validity of proceedings. No proceedings of the Council, or of any committee thereof or of any committee or board of the University, and no act done by the Chancellor, Deputy Chancellor, Vice-Chancellor or any other officer whilst any of those persons is acting pursuant to and in accordance with the Statutes in the office to which he was elected or appointed shall be invalidated by reason of—

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

or

- (e) the fact that a person purporting to be a member of the Council or any committee thereof or of any committee or board of the University was not such a member.

32. Powers of the Council. Subject to this Act and the Statutes, the Council—

- (a) shall have full power and authority to appoint and dismiss members of the academic or other staff of the University;
- (b) subject to paragraph (c) shall have the entire management and control of the affairs, concerns and property of the University and may act in all matters concerning the University in such manner as appears to it best calculated to promote the interests and purposes of the University; and
- (c) shall have the entire management and control of the finances of the University.

33. Delegation by the Council. (1) The Council may, in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution, delegate all or any of its powers and authorities, duties and functions under this Act, except this power of delegation and its powers in relation to the making of Statutes or rules and its duties in relation to the annual adoption of a budget and the approval of the proposed distribution of funds referred to in section 57, to any member of the Council or to any committee or board appointed by the Council, or to any officer or officers of the University.

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

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

- (a) in accordance with the resolution of delegation; and
- (b) if the exercise of the power or authority or the performance of the duty or function is dependent upon the opinion, belief or state of mind of the Council in relation to a matter, upon the opinion, belief or state of mind of the delegate in relation to that matter.

Subdivision 2—Administrative Provisions Relating to Convocation

34. Powers, authorities and duties. Convocation shall have and may exercise such powers, authorities and duties as may be prescribed by the Statutes.

35. Meetings of Convocation. Save as prescribed by or under the Statutes, meetings of Convocation shall be convened and the business

at such meetings shall be conducted in such manner as the Council shall determine.

36. Warden of Convocation. (1) At its first meeting held in every year, Convocation shall elect one of its members to be Warden who shall, subject to this Act, hold office until the first meeting of Convocation held in the year next following.

(2) The office of Warden shall become vacant if—

(a) he dies;

(b) he becomes incapable of exercising the rights and privileges of a member of Convocation;

or

(c) he resigns such office by writing under his hand delivered to the Chancellor.

(3) If from any cause, other than expiration of the term of office, a vacancy occurs in the office of Warden, Convocation shall elect another of its members to be Warden and, subject to this Act, he shall hold office as such until the first meeting of the Council in the year next following.

37. Chairmanship of Convocation. (1) The Warden shall preside at all meetings of Convocation at which he is present.

(2) At any meeting of Convocation at which the Warden is not present, a member of Convocation, elected by and from the members present, shall preside.

38. Officers of Convocation. The Statutes may provide for officers of Convocation, and for the election by Convocation of officers of Convocation.

39. Standing committees and other committees. The Statutes may provide for standing committees and other committees of Convocation.

40. Quorum of Convocation. Save as prescribed by or under the Statutes, a quorum of any meeting of Convocation shall be such number of members as the Council shall determine.

41. Re-election or re-appointment. Subject to this Act, a person may be re-appointed or re-elected to any office pursuant to this subdivision if he is otherwise capable for the time being of holding that office or position.

42. Validity of proceedings. No proceedings of Convocation, or of any committee thereof, and no act done by the Warden or any person

acting pursuant to and in accordance with the Statutes as Warden shall be invalidated by reason of—

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

Subdivision 3—Regulations, Statutes and Rules

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

(2) The Statutes and rules made pursuant to this Act shall be read subject to the regulations made under this Act to the extent that where there is an inconsistency between a Statute and a regulation, or a rule and a regulation, the regulation shall prevail.

44. Statutes. (1) The Council may from time to time make Statutes not inconsistent with this Act for the carrying into effect of the several provisions, intentions and objects of the Act, and generally for the control, management, good government and discipline of the University.

(2) Without limiting the powers of the Council in that behalf, the Council may make Statutes with respect to all or any of the following matters:—

- (a) the use and custody of the common seal;
- (b) the election or appointment of—
 - (i) members of the Council;
 - (ii) committees or boards established by the University (the establishing of which is hereby authorized);
- (c) the manner and time of convening, holding and adjourning the meetings of the Council; voting at Council meetings; the powers and duties of the person acting as chairman thereof; the conduct and record of the business of the Council; the establishment and appointment of committees of the Council, and the quorum, powers and duties of such committees; and the reimbursement of expenses of the

- Chancellor, Deputy Chancellor and other Council members attendant upon such offices;
- (d) the functions, powers, authorities and duties of Convocation; officers of Convocation and their election; the admission of members to Convocation; the manner and time of convening, holding and adjourning the meetings of Convocation; the quorum of Convocation and voting at Convocation meetings; the powers and duties of the person acting as chairman thereof; the conduct and record of the business of Convocation; the establishment and appointment of committees of Convocation, and the quorum, powers and duties of such committees;
 - (e) the resignation of members of the Council, the Chancellor, the Deputy Chancellor and the Warden of Convocation;
 - (f) the appointment of a person to act for the Deputy Chancellor or the Warden of Convocation during the illness or absence of such officers;
 - (g) the number, appointment, termination of appointment, discipline (including the dismissal, suspension and imposition of disciplinary punishments other than dismissal or suspension) and, subject to applicable awards or industrial agreements, the stipends or salaries or wages of members of the staff and other officers and employees of the University;
 - (h) subject to section 66, the provision of superannuation schemes for staff of the University;
 - (i) the admission and enrolment of students;
 - (j) the discipline of enrolled students;
 - (k) the admission of students of other universities and institutions of higher education to any corresponding status or of graduates of such universities and institutions to any corresponding degrees or diplomas without examination;
 - (l) the determination of courses of study and examinations for degrees, diplomas and other awards;
 - (m) the granting of degrees, diplomas and other awards including honorary awards;
 - (n) the granting of fellowships, scholarships, exhibitions, bursaries and prizes;
 - (o) the fees and charges, including fines, to be paid for admission to the University, examinations, for the granting of degrees, diplomas, and other awards, for tuition or attendance at the lectures and classes of the University, offences involving vehicles, for the development and use of University services and facilities including residence and in respect of the Student Association;
 - (p) the exemption from or deferment of payment of fees and charges, including fines;
 - (q) the collection in respect of any fee, charge or other imposition arising from any higher education contribution scheme as

provided for under any Act passed by the Commonwealth in respect thereof;

- (r) the establishment, management, and control of libraries and other support facilities in connexion with the University;
- (s) the affiliation, association or connexion with the University of any educational or research establishment wheresoever situated, to which the governing body of such establishment may consent;
- (t) the control and investment of the property of the University, including property held upon trust or subject to a condition;
- (u) the protection of the property of, or under the control of, the University from trespass or damage or misuse;
- (v) the regulation and control of access to and the use of land and buildings the property of, or under the control of, the University and of the conduct of persons and the presence and use of vehicles thereon;
- (w) the powers, authorities, duties and obligations of the Student Association;
- (x) the form and use of arms, emblems or armorial bearings of the University or of any college within or associated with the University;
- (y) the ownership and exploitation of inventions and discoveries, that are the property of the University, made by the staff or enrolled students of the University;
- (z) the management and maintenance of colleges including residential colleges and halls of residence within the University or of affiliated residential colleges;
- (aa) the form and use of academic dress;
- (ab) the definition of and procedures to be applied in situations of conflict of interests with respect to members of the Council and the staff of the University;
- (ac) the granting of financial and other assistance to students of the University;
- (ad) the determination of the persons or class of persons who constitute the academic staff of the University.

(3) Without limiting the generality of the powers conferred by subsection (1), a Statute made pursuant to subsection (2) (v)—

- (a) may provide, in the case of an offence that consists of—
 - (i) bringing a vehicle onto or parking or standing a vehicle on a site in breach of a Statute;
 - (ii) driving a vehicle on any part of a site in breach of a Statute;
 - (iii) driving a vehicle on any part of a site at a speed in excess of a speed that, in relation to that part, is prescribed by Statute, determined by a method prescribed by Statute

- or fixed by a person authorized by Statute so to do in respect of the site or that part;
- (iv) driving a vehicle on any part of a site contrary to any direction, whether given by a person authorized by Statute so to do or by a traffic control device on the site;
 - (v) doing on a site with or in respect of a vehicle such other act as may be prescribed by Order in Council for the purposes of this section,
 - that the owner of the vehicle (whether or not he was in charge of the vehicle at the material time) shall be liable to be punished for the offence as well as the person who was in charge of the vehicle at the material time;
 - (b) may define who is the owner of a vehicle for the purposes of the Statutes;
 - (c) may provide for the removal or disposal of any vehicle—
 - (i) parked or left standing on a site in such a position as to obstruct, interfere with or cause danger to other vehicles on the site or to users of the site;
 - or
 - (ii) apparently abandoned on a site;
 - (d) may prescribe the proof that is necessary or sufficient to establish any matter relevant to an offence created by Statute.

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

In this subsection, the term “site” means any land or premises the property of or under the control of the University.

(4) The Council may by Statute repeal, rescind, revoke, alter, vary, amend or otherwise modify any Statute or part of a Statute.

(5) A Statute may authorize the Council to make rules (not being inconsistent with the Act or the Statutes) for the carrying into effect of all or any of the provisions and objects of the Statute and may prescribe procedures for the promulgation of such rules.

(6) (a) All rules made by the Council pursuant to any Statute shall be promulgated as specified in the Statute.

(b) All rules shall be of full force and effect as from the day on which they are promulgated or from such later date as may be specified in the rules.

(c) The production of a verified copy of any such rule under the common seal of the University is sufficient evidence of the making and authenticity of the same in all Courts and before all persons acting judicially.

(7) A Statute may impose or authorize the Council or any officer of the University to impose a penalty not exceeding 10 penalty units

for breach of any provision and provide for the recovery and enforcement of any such penalty.

(8) Where no other provision is made for the recovery or enforcement of a penalty imposed by or under the authority of a Statute, such penalty may be recovered or enforced by complaint in a summary way under the *Justices Act 1886-1988*.

45. Statutes to be approved by Governor in Council. (1) Every Statute made by the Council shall be sealed with the common seal of the University, and shall be transmitted to the Minister to be dealt with in accordance with this section.

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

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

Subdivision 4—Provisions Relating to Companies, Joint Agreements and Arrangements, Agreements for Use of Facilities and Staff

46. Formation of and participation in companies, etc. (1) The University, in the performance of its functions under this Act and without limiting the provisions of section 5 (2) (f), may be a member of, or form or participate in the formation of, or manage a company, whether incorporated, established or entered into within or outside the State, the objects or purposes of which include one or more of the following objects or purposes:—

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

(2) The University, or any company of which the University is a member, or which is formed, participated in or managed by the

University, may enter into any agreement or arrangement with any company the objects of which include one or more of the objects and purposes specified in subsection (1) (a) to (g) both inclusive, in respect of any of those lastmentioned objects and purposes.

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

48. Companies to furnish returns, etc. Any company—

(a) formed by the University pursuant to section 46;

(b) managed by the University;

or

(c) of which the University becomes a member,

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

49. Audit requirements. Section 46I of the *Financial Administration and Audit Act 1977-1988* applies, to the extent provided by that section, to any company of a kind referred to in section 48.

Subdivision 5—General Administrative Provisions

50. Annual Report. The Council shall, as soon as practicable but no later than four months from 31 December each year, prepare and transmit to the Minister a report of the University during that year, in accordance with the provisions of the *Financial Administration and Audit Act 1977-1988*.

51. Tabling of certain subordinate legislation. (1) Section 28A of the *Acts Interpretation Act 1954-1989* applies in respect of Orders in Council and Statutes made for the purposes of this Act, and, for the purposes of that application, that section shall be read and construed as if references to regulations were references to Orders in Council and Statutes made for the purposes of this Act.

(2) Every Proclamation made under this Act shall be laid before the Legislative Assembly within 14 sitting days after publication in the *Gazette*.

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

Division 3—Establishment of Colleges

53. Establishment of University colleges. (1) The Governor in Council, on the recommendation of the Council, may from time to time by Order in Council establish colleges or other University institutions (each of which is in this Division called a “college”) for the purpose of carrying out at those colleges or institutions any or all of the functions specified in section 6.

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

- (a) assign to the college a name or title;
- (b) declare at what place the college shall be situated;
- (c) specify the provisions applicable to and in relation to the college which provisions shall be binding upon all persons in relation to that college and which may include—
 - (i) the powers, authorities, duties and functions which the Council may exercise and perform in respect of the college;
 - (ii) the general arrangements for the local management, supervision and control of the college including if necessary the constitution of an advisory council in respect thereof and the membership of such council;
 - (iii) the financial arrangements for or in respect of the establishment or maintenance of, or both the establishment and maintenance of, the college;and
- (iv) generally such other matters or things as may be necessary or desirable in order to carry out in respect of the college the purposes of this Division.

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

54. A college to be part of the University. (1) A college shall be, and shall function as, part of the University.

(2) Subject as otherwise may be provided by Order in Council made under section 53 or by Statute, the Council may exercise in relation to a college all the powers conferred on the Council or University by this Part or the Statutes in relation to the University and shall have the entire management of and superintendence over the affairs and concerns of the college and of any property held by the University upon trust for the purpose of the college, and in all cases not provided for by this Part the Council may in relation to the college and to any such property act in such manner as appears to it best calculated to promote the interests or purposes of the college.

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

55. Powers and functions of advisory council. An advisory council constituted for a college may, subject to this Act—

- (a) exercise and perform such powers, authorities, duties and functions as may be prescribed by Statute;
and
- (b) exercise and perform such of the powers, authorities, duties and functions conferred or imposed on the Council by section 53 as are delegated from time to time to the advisory council by the Council.

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

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

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

Division 4—Property and Finance

57. Budget. (1) The Council shall, in each year, adopt for the next following year commencing on 1 January a budget for all funds of the University other than those to which subsection (2) relates and shall approve all amendments to the budget and shall control the expenditure of the University so that it conforms as nearly as practicable to the approved budget.

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

(3) The financial year of the University shall be the period of 12 months ending on 31 December.

58. Application of revenue by the University. (1) All fees and all other moneys received by the Council under this Act or otherwise shall, subject to this Division and to the terms of any applicable trust, be applied by the Council solely for the purposes of the University.

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

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

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

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

- (a) by way of loan from the Treasurer;
- (b) by way of loan or overdraft from any bank;
- or
- (c) by way of loan from any other person or body,

upon, at and subject to such security, rate of interest and other terms and conditions as the Council, subject to the approval of the Governor in Council, thinks fit.

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

(3) The University is a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982-1989*.

60. University may accept gifts, etc., subject to conditions, and establish trust funds. In exercising its power to take, acquire by grant, purchase or take on lease any property the University may agree to and carry out any conditions of any gift, grant, bequest, devise or other

means whereby it takes or acquires any property or of any such purchase or lease and the Council may—

- (a) create;
- (b) administer;
- or
- (c) create and administer,

any trust fund or funds in connexion therewith or for any other purpose whatsoever.

61. Powers of investment. (1) The Council may establish one or more investment common funds for the collective investment of any trust and other moneys held by or in the custody of the University.

(2) The Council may from time to time without liability for breach of trust bring into or withdraw from any such investment common fund the whole or any part of any moneys of the University or of any trust moneys or any other moneys held by or in the custody of the University.

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

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

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

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

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

- (a) if the instrument creating the trust expressly directs to the contrary;

or

- (b) if the exercise of the power would constitute a breach of any condition under which the fund or moneys in question were acquired.

62. Variation of terms of trusts and gifts. (1) Where any property is held by or for the University either at the date of the commencement of section 5 or at any time thereafter on terms requiring such property or the income therefrom to be applied for a purpose or purposes and—

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

or

- (f) the property or income derived therefrom proves inadequate to carry out such purpose or all or any of such purposes,

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

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

(3) A scheme prepared pursuant to subsection (1) shall have no effect unless and until approved by the Governor in Council.

(4) A scheme approved by the Governor in Council under subsection (3) is, in this section and sections 63 and 64, in relation to the property or part or residue thereof concerned, called the "approved scheme" and shall be published in the *Gazette*.

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

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

(2) An amendment to an approved scheme proposed pursuant to subsection (1) shall have no effect unless and until approved by the Governor in Council.

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

64. Provisions relating to approved schemes. (1) Where property the subject of an approved scheme consists (wholly or in part) of land, the University shall within one calendar month after the publication in the *Gazette* of the approved scheme and within one calendar month after the publication in the *Gazette* of every amendment thereof, notify the authority charged in law with the registration of dealings relating to the said land of the approved scheme or, as the case may be, amendment, and that authority shall cause to be made in the appropriate register all such entries as are necessary to record particulars of the approved scheme or amendment.

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

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

(4) The powers conferred by this section and sections 62 and 63 are in addition to any other powers or rights exercisable in law in respect of property held by the University upon trust.

65. Accounts and Audit. The provisions of the *Financial Administration and Audit Act 1977-1988* apply, to the extent provided by that Act, to the Council in respect of the financial proceedings of the University.

66. Superannuation scheme or arrangement. (1) The Council is authorized to establish or participate in a provident scheme or arrangement or a scheme or arrangement that secures superannuation benefits for employees of the University.

(2) It shall not be competent to the Council—

- (a) to establish or to commence to participate in a scheme or arrangement such as is referred to in subsection (1);

or

- (b) to amend a scheme or arrangement such as is referred to in subsection (1) established by the Council,

unless the approval of the Governor in Council has first been obtained to the establishment, participation or amendment, as the case may be.

(3) The Governor in Council may grant the approval referred to in subsection (2) subject to such conditions as he sees fit including a condition that the terms and conditions of a scheme or arrangement established or participated in or amended by the Council shall include a provision authorizing the Auditor-General or a person authorized by him for that purpose to audit the accounts and records of the financial transactions of the University in respect of that scheme or arrangement.

When the Auditor-General is so authorized he shall have with respect to such audit all the powers and authorities conferred on him by the *Financial Administration and Audit Act 1977-1988*.

Division 5—Transitional and Special Arrangements

Subdivision 1—Cessation of the University College of Southern Queensland

67. University College of Southern Queensland to cease to exist. The University College of Southern Queensland shall cease to exist on the commencement of section 5.

Subdivision 2—Provisions Relating to the University College of Southern Queensland

68. Council of the University College of Southern Queensland to cease to exist. The chairman and each other member of the Council of the University College of Southern Queensland holding office as such immediately prior to the commencement of section 5 shall go out of office forthwith on such commencement and that Council shall thereupon cease to exist.

69. Effect of cessation of the University College of Southern Queensland. (1) Where, after the commencement of section 67, property would have passed by any testamentary disposition or otherwise to or for the benefit of the University College of Southern Queensland, if it were still in existence, that property shall pass to or for the benefit of the University, and shall vest in the University of Southern Queensland, but without prejudice to any lawful claim of any person in relation to that property.

(2) All property and other assets which immediately prior to the commencement of section 67 were held by or vested in the University College of Southern Queensland shall, on that commencement, be divested from that University College and shall vest in the University.

(3) If any property vested in the University by subsection (2) is or shall be subject to any condition or trust, that property shall be held

by the University subject to the conditions or trusts on which it was held immediately before that vesting.

Any reference in any such conditions or trusts to the University College of Southern Queensland shall, on and from the commencement of section 67, be read and construed as a reference to the University.

(4) All rights and entitlements accruing or accrued to the University College of Southern Queensland in respect of any property or assets vested in the University pursuant to subsection (2) are hereby vested in and may be enforced by the University.

(5) All liabilities of the University College of Southern Queensland in respect of any property vested in the University pursuant to subsection (2) may be enforced against the University.

(6) All suits, actions and proceedings and all causes of action pending or existing immediately prior to the commencement of section 67 by or against the University College of Southern Queensland may be carried on and prosecuted by or against the University and no such suit, action or proceeding shall abate or be prejudicially affected by this Act.

(7) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the University College of Southern Queensland existing at the commencement of section 67 shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the University and may be enforced by or against the University accordingly.

(8) All other matters commenced by the University College of Southern Queensland pursuant to the performance of its functions and which remain incomplete at the commencement of section 67 shall be continued by the University, provided such matters are not inconsistent with the functions of the University under this Act.

(9) Where title to any property vested in or otherwise transferred by this Act to the University is registered in any register, the person having charge of the register, upon a request made to him in writing by or on behalf of the University, shall make all entries in the register to record the vesting of that property in accordance with this Act.

No stamp duty, fees or other charges shall be payable in respect of the request.

70. Employment of staff of the Council of the University College of Southern Queensland. (1) In this section and section 71, "officer of the University College of Southern Queensland" means a person who immediately prior to the commencement of section 68 held any salaried office or employment with the Council of the University College of Southern Queensland or had been appointed to the staff of the University College of Southern Queensland but had not taken up duty.

(2) Every officer of the University College of Southern Queensland shall, on the commencement of this section, become an officer of the

University on such terms and conditions, subject to any applicable award or industrial agreement, as the Council may determine, but no less favourable than the terms and conditions upon which he was employed at the University College of Southern Queensland immediately before that commencement.

(3) A person who becomes an officer of the University pursuant to subsection (2) shall—

(a) retain any rights accrued or accruing as an officer of the University College of Southern Queensland;

and

(b) be entitled to receive annual, sick and long service leave and any similar entitlement accrued or accruing to him as an officer of the University College of Southern Queensland,

and his service as an officer of the University College of Southern Queensland shall be deemed to be service as an officer of the University for the purposes of any law under which those rights accrued or were accruing or by which that entitlement is conferred.

(4) A person who becomes an officer of the University pursuant to this section is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

71. Superannuation entitlements. (1) A person who, pursuant to section 70, becomes an officer of the University shall—

(a) retain all entitlements accrued or accruing to him as a contributor to a fund under the *Public Service Superannuation Act 1958-1989*, the *State Service Superannuation Act 1972-1989* or the *Superannuation (Government and Other Employees) Act 1988*;

and

(b) be deemed to be an officer or member, as the case may be, within the meaning of each of those Acts and shall—

(i) subject to subsection (2), continue to contribute to that fund;

and

(ii) be entitled to payments and other benefits therefrom in respect of himself, his widow and any child of his.

(2) Without derogating from the provisions of subsection (1), an officer of the University within a class or classes to be prescribed by Statute may contribute to such other superannuation scheme established or participated in pursuant to section 66 in lieu of continuing to contribute to the scheme or schemes referred to in subsection (1): Provided that a person's eligibility to continue to be a member under the *Superannuation (Government and Other Employees) Act 1988* shall not be affected by any arrangements made pursuant to this subsection.

Subdivision 3—Provisions Relating to the University College of Southern Queensland Student Association and the Student Association

72. University College of Southern Queensland Student Association to cease to exist. The University College of Southern Queensland Student Association shall cease to exist on the commencement of section 5.

73. Provisions relating to the University College of Southern Queensland Student Association. (1) Where, after the commencement of section 72, property would have passed by any testamentary disposition or otherwise to or for the benefit of the University College of Southern Queensland Student Association, if it were still in existence, that property shall pass to or for the benefit of the Student Association, and shall vest in the Student Association, but without prejudice to any lawful claim of any person in relation to that property.

(2) All property which immediately prior to the commencement of section 72 was held by or vested in the University College of Southern Queensland Student Association shall, on that commencement, be divested from the University College of Southern Queensland Student Association and shall vest in the Student Association.

(3) If any property vested in the Student Association by subsection (2) is or shall be subject to any condition or trust, that property shall be held by the Student Association subject to the conditions or trusts on which it was held immediately before that vesting.

Any reference in any such conditions or trusts to the University College of Southern Queensland Student Association shall, on and from the commencement of section 72, be read and construed as a reference to the Student Association.

(4) All rights accruing or accrued to the University College of Southern Queensland Student Association in respect of any property vested in the Student Association pursuant to subsection (2) are hereby vested in and may be enforced by the Student Association.

(5) All liabilities of the University College of Southern Queensland Student Association in respect of any property vested in the Student Association pursuant to subsection (2) may be enforced against the Student Association.

(6) All suits, actions and proceedings and all causes of action pending or existing immediately prior to the commencement of section 72 by or against the University College of Southern Queensland Student Association may be carried on and prosecuted by or against the Student Association and no such suit, action or proceeding shall abate or be prejudicially affected by this Act.

(7) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the University College of Southern Queensland Student Association existing at the commencement of section 72 shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Student Association and may be enforced by or against the Student Association accordingly.

(8) All other matters commenced by the University College of Southern Queensland Student Association pursuant to the performance of its functions and which remain incomplete at the commencement of section 72 shall be continued by the Student Association, provided such matters are not inconsistent with the functions of the Student Association under this Act.

74. Officers of the University College of Southern Queensland Student Association. (1) Any person who immediately prior to the commencement of section 72 holds any office with the University College of Southern Queensland Student Association as provided for in the University College of Southern Queensland Student Association's Constitution shall, by virtue of this section, hold the corresponding office with the Student Association, on such terms and conditions as that office was held with the University College of Southern Queensland Student Association.

(2) Any person who immediately prior to the commencement of section 72 held any salaried office or employment with the University College of Southern Queensland Student Association other than as provided for in subsection (1) or who had been appointed to the staff of the University College of Southern Queensland Student Association but had not taken up duty, shall continue in employment with the Student Association, or be entitled to take up employment with the Student Association, as the case may be, on the same terms and conditions of employment upon which he was employed or had been appointed with or by the University College of Southern Queensland Student Association.

(3) A person who pursuant to subsections (1) and (2) becomes an officer or employee of the Student Association retains any rights accrued or accruing to him as an officer or employee of the University College of Southern Queensland Student Association.

75. Constitutional arrangements. (1) For the purpose of facilitating and enabling the preparation and adoption of a constitution by the Student Association upon the commencement of section 72, the provisions of the Constitution of the University College of Southern Queensland Student Association, as in force immediately prior to that commencement with respect to membership and meetings, including the holding, notification and conduct of meetings with all necessary adaptations and with such modifications as the Council may deem expedient, shall be applicable to the Student Association and until a constitution is first adopted after the commencement of section 72, membership of the Student Association shall be, and meetings shall be held, called and conducted in accordance with those provisions as so adapted and modified.

(2) In so far as the provisions referred to in subsection (1) do not extend, the Council may give such directions, not inconsistent with this Act, as it deems expedient for the purpose of facilitating and enabling the preparation and adoption of a constitution by the Student Association and all things done and steps taken by or in relation to the Student

Association in accordance with such directions shall be of full force and effect and binding on the Student Association and all persons.

Subdivision 4—Provisions for First Council

76. Constitution of the first Council of the University. (1) (a) There shall be a first Council of the University constituted as provided for in this subdivision.

(b) The first Council shall be constituted from the commencement of this section.

(2) The provisions of this Part apply to the first Council except where this subdivision provides otherwise.

(3) The first Council shall have and may exercise such powers and authorities as are vested in the Council by this Part: Provided that, in the period between commencement of this section and the commencement of section 5, the powers and authorities of the first Council shall be limited to the doing of such matters and things as are necessary or expedient to facilitate the establishment of the University on the commencement of section 5.

(4) The first Council shall consist of those members of the Council of the University College of Southern Queensland holding office immediately prior to the commencement of this section.

(5) The members of the first Council shall, subject to this Part, hold office until the Council duly constituted pursuant to section 8 assumes office.

(6) The first meeting of the first Council shall be convened by the first Vice-Chancellor who shall preside until a Chancellor is elected pursuant to section 78.

(7) The first Council shall make Statutes and shall take steps that in its opinion are necessary or expedient to ensure that a Council is duly constituted pursuant to section 8 on or before the date that is 180 days from and after the appointed day or such later date as is specified in a Proclamation made at any time prior to the first mentioned date.

77. Appointment of first Vice-Chancellor. (1) The first Vice-Chancellor of the University shall be the person who immediately prior to the commencement of section 76 held office as Vice-Chancellor of the University College of Southern Queensland.

(2) The period and conditions of appointment of the first Vice-Chancellor pursuant to subsection (1) shall be as determined by the first Council by resolution in that behalf provided that such period and conditions of appointment shall be of no force and effect unless and until the same are approved by the Governor in Council.

(3) Subsection (2) does not derogate from the Council's ability to subsequently make a Statute in relation to the period and conditions of appointment of the Vice-Chancellor of the University.

78. Election of Chancellor and Deputy Chancellor. (1) The members of the first Council shall, at their first meeting, elect from among their number, a Chancellor and a Deputy Chancellor.

(2) Such election shall not create casual vacancies in the membership of the first Council.

(3) The Chancellor and Deputy Chancellor elected as prescribed in subsection (1) shall vacate their offices when the Council duly constituted pursuant to section 8 assumes office.

(4) Unless the first Council prescribes otherwise by Statute, the conditions of holding office of the first Chancellor and first Deputy Chancellor, other than the period prescribed in subsection (3), shall be limited to reimbursement of reasonable expenses attendant upon such offices as are approved from time to time by the first Council.

79. Casual vacancies on the first Council. If a casual vacancy occurs in the office of any member of the first Council, the Minister may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of appointment.

Subdivision 5—Provisions Relating to Students and Awards

80. Enrolment of students in courses. (1) Each person who was, immediately prior to the commencement of section 5, a student of the University College of Southern Queensland enrolled in a higher education course shall, on that commencement, become a student of the University and be enrolled in a course of study that is substantially the same, in academic content, as the higher education course in which the student was enrolled at the University College of Southern Queensland.

(2) The University shall provide such courses of study as are necessary for the purposes of subsection (1).

81. Awards. (1) If a student is enrolled in a course of study pursuant to section 80 (1), the University shall, as far as it may practicably do so, give the student credit in that course for any subject or work completed by the student in the higher education course in which the student was previously enrolled.

(2) A student who satisfactorily completes a higher education course in the year prior to the year in which section 5 commences and who has not been granted an academic award of the University College of Southern Queensland by the date of commencement of section 5 shall be granted an academic award under the common seal of the University.

Subdivision 6—General Provisions

82. Compliance with accounts and audit requirements. The first Council shall comply in all respects with the provisions of the *Financial Administration and Audit Act 1977-1988* in the place of the Council of the University College of Southern Queensland in respect of the financial year of the Council of the University College of Southern Queensland ending on 31 December preceding the appointed day (if such provisions have not been complied with prior to the commencement of section

68) and any financial statements prepared by the first Council in respect of that period in the place of the Council of the University College of Southern Queensland shall have the same force and effect as if they had been prepared by the Council of the University College of Southern Queensland.

83. Compliance with annual reporting requirements. The first Council shall comply in all respects with the provisions of the *Financial Administration and Audit Act 1977-1988* in the preparation of the annual report on the operations of the Council of the University College of Southern Queensland in respect of the financial year ending on 31 December preceding the appointed day, if the Council of the University College of Southern Queensland has not already done so prior to the commencement of section 68.

84. Savings. (1) Unless otherwise expressly prescribed, every approval, determination, authority, certificate, direction, notification, order, permission, appointment, arrangement, prohibition, refusal, registration or other act of authority made, granted, issued, done or otherwise originated by the Council of the University College of Southern Queensland under Part III, or under any regulation, by-law or rule made in respect of the University College of Southern Queensland, Council of the University College of Southern Queensland or University College of Southern Queensland Student Association under Part III in relation to the subject matter or operation of the preceding subdivisions, Divisions and Parts shall, subject as hereinafter provided, continue in force for the purposes of this Act as fully and effectually as if it had been granted, issued, done or otherwise originated under a corresponding provision of this Act including a corresponding regulation, Statute or rule (and shall, where necessary, be deemed to have so originated) until it expires by effluxion of time or is rescinded, repealed, revoked, cancelled, suspended or otherwise determined under this Act: Provided that every such approval, determination, authority, certificate, direction, notification, order, permission, appointment, arrangement, prohibition, refusal, registration or other act of authority shall be read and construed subject to this Act.

(2) Nothing in this section limits the operation and effect of the *Acts Interpretation Act 1954-1989*.

85. Statutes and rules to continue in existence. Without derogating from the provisions of section 84 and subject to any necessary adaptation and to the extent that the same may reasonably apply—

- (a) all Statutes made by the Council of the University College of Southern Queensland and in force immediately prior to the commencement of section 76;
- (b) all rules made by the Council of the University College of Southern Queensland pursuant to those Statutes,

shall be deemed to be the Statutes and rules of the University made by the Council until such time as Statutes and rules are made pursuant to this Part.

86. Construction of references. Unless the context otherwise indicates or requires, a reference in any other Act, by-law, regulation or other statutory instrument to the Council of the University College of Southern Queensland shall be read as a reference to the Council, and a reference to the University College of Southern Queensland shall be read as a reference to the University.

87. Governor in Council may prescribe. The Governor in Council may by Order in Council prescribe with respect to all matters that are necessary or desirable for effectually achieving the objects and purposes of this Part.

PART III—UNIVERSITY COLLEGE OF SOUTHERN QUEENSLAND

Division 1—Preliminary

88. Interpretation. In this Part, unless the contrary intention appears—

“academic staff” means such staff of the University College as are determined to be academic staff in the Statutes;

“appointed member” means a member of the Council of the University College other than an *ex officio* member;

“Association” means the University College of Southern Queensland Student Association established and incorporated under this Part;

“company” includes, for the purposes of sections 89 (2) (f), 119, 121 and 122, a corporation within the meaning of the *Companies (Queensland) Code*, an association or a partnership;

“Council of the Institute” means the Council of the Darling Downs Institute of Advanced Education constituted under the *Education Act 1964-1989*;

“Council of the University College” means the Council of the University College of Southern Queensland constituted under this Part;

“enrolled student” means a student enrolled in the University College;

“graduate” means any person to whom is granted a degree or diploma of the University College;

“higher education course” means—

(a) in the case of the Institute, a course in advanced education accredited by the Board of Advanced Education and offered by the Institute;

or

(b) in the case of the University College, a course of study accredited and offered by the University College;

“Institute” means the Darling Downs Institute of Advanced Education, a college of advanced education established under the *Education Act 1964-1989*;

“Minister” includes any Minister of the Crown for the time being performing the duties of the Minister;

“Statutes” means the Statutes of the University College made under this Part;

“Union” means the Darling Downs Institute of Advanced Education Union established and incorporated under the *Education Act 1964-1989*;

“University College” means the University College of Southern Queensland established and incorporated under this Part;

“vehicle” means a vehicle within the meaning of the *Traffic Act 1949-1988*.

Division 2—Constitution and Government of the University College of Southern Queensland

Subdivision 1—The University College of Southern Queensland

89. Establishment and incorporation of the University College. (1)

A University College to be known as the University College of Southern Queensland consisting of—

- (a) the Council of the University College;
- (b) the enrolled students;
- (c) the graduates of the University College;
- (d) the members of the academic staff and other staff of the University College,

is hereby established at Toowoomba in the State of Queensland.

(2) The University College shall be a body corporate under the name of the “University College of Southern Queensland” and by that name shall have perpetual succession, a common seal and be capable of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction, all debts or sums of money due to it;
- (c) taking, acquiring by grant, purchasing, taking on lease, property (whether situated in Queensland or elsewhere);
- (d) surrendering to the Crown, granting, selling, alienating, leasing, assigning and transferring, property (whether situated in Queensland or elsewhere);
- (e) accepting gifts, grants, bequests or devises and creating and administering trust funds;
- (f) causing the formation of companies, and becoming a member of or managing any company or companies for any purpose that may seem directly or indirectly calculated to further

the objects, functions or powers of the University College or to benefit the University College in any way whatsoever;

- (g) doing and suffering all other acts and things that bodies corporate may by law do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of—

- (a) the common seal of the University College and, until the contrary is proved, shall presume that it was duly affixed to any document on which it appears;
- (b) the signature of the chairman of the Council of the University College.

90. Functions and powers of the University College. (1) The functions of the University College shall be—

- (a) to provide courses of study appropriate to a university and to provide courses of study or instruction at such levels of attainment as the Council of the University College deems proper to meet the needs of the community;
- (b) to disseminate knowledge and to promote scholarship appropriate to a university;
- (c) to encourage by study, research and other means the advancement and development of knowledge;
- (d) to encourage by study, research and other means the advancement and development of technology and the practical application of such technology to Government, industry, commerce and the community;
- (e) subject to the Statutes, to award and confer degrees, diplomas and other awards;
- (f) to encourage and provide facilities for study and research generally;
- (g) to provide educational facilities at university standard for persons seeking the benefits of such facilities who, being eligible, are permitted by the University College to use such facilities;
- (h) to provide facilities and resources for the welfare of staff and students;
- (i) to establish such facilities as the University College deems desirable for providing courses of study or instruction at such levels of attainment as the Council of the University College deems proper to meet the special needs of the community;
- (j) to exploit commercially, for the benefit of the University College, any facility or resource of the University College including any study, research or knowledge, or the practical application thereof, developed by or belonging, whether

alone or in conjunction with any other person or body, to the University College;

- (k) to ensure that developments occur in the overall operations of the University College and in particular in respect of planning, staffing, curriculum, resources and research to a standard required for university status.

(2) For the purpose of discharging the functions of the University College, the Council of the University College shall have and may exercise such powers and authorities as are incidental to the proper discharge by the University College of any of its functions under this Part, including but not limited to the powers and authorities to—

- (a) acquire by purchase, lease or otherwise, land, whether improved or not, for staff and student residential purposes;
- (b) erect on lands of the University College, whether acquired for that purpose or not, buildings suitable for staff and student residential purposes;
- (c) enter into arrangements with any other person or body for the provision of student and staff residential accommodation;
- (d) establish such organizational sections or units as it sees fit;
- (e) assist students enrolled at the University College by means of loan, grant or benefit in kind to such students.

Subdivision 2—The Council of the University College of Southern Queensland

91. The Council of the University College. (1) There shall be a Council of the University College which shall have and may exercise and discharge the functions, powers, authorities and duties conferred or imposed upon it by or under this Part.

(2) The Council of the University College shall be the governing body of the University College.

92. Constitution of the Council of the University College other than the first Council of the University College. (1) Subject to subsection (2), the Council of the University College, other than the first Council of the University College, shall consist of—

- (a) the Chancellor of the University College, who shall be an *ex officio* member;
- (b) the Vice-Chancellor of the University College, who shall be an *ex officio* member;
- (c) the Director-General of Education, or his nominee, who shall be an *ex officio* member;
- (d) three members who are appointed by the Minister on the nomination of the Senate of the University of Queensland;
- (e) three members who are members of the full-time academic staff of the University College, elected by members of that staff in the manner prescribed by the Statutes;
- (f) one member who is a member of the full-time staff of the University College, other than the academic staff, elected

by members of that staff in the manner prescribed by the Statutes;

- (g) two members, each of whom is an enrolled student of the University College, elected or appointed in the manner prescribed by the Statutes;
- (h) eight members appointed by the Governor in Council.

(2) The Council of the University College as constituted for the time being may from time to time appoint members, but so that—

- (a) the number of persons so appointed shall not, at any one time, exceed two;
- (b) a person whose sole or principal employment is in connexion with his duties as a member of the full-time staff of the University College shall not be appointed a member of the Council of the University College under this subsection;
- (c) a person who is an enrolled student shall not be appointed a member of the Council of the University College under this subsection.

93. Assumption of office by members of the Council of the University College. The members of the Council of the University College constituted in accordance with section 92 shall assume office on a day appointed for that purpose by the Governor in Council by Proclamation published in the *Gazette*.

Subdivision 3—The University College of Southern Queensland
Student Association

94. University College of Southern Queensland Student Association.

(1) There shall be a University College of Southern Queensland Student Association.

(2) The Association shall be a body corporate under the name of the “University College of Southern Queensland Student Association” and by that name shall have perpetual succession, a common seal and be capable of—

- (a) suing and being sued;
 - (b) compounding or proving in any court of competent jurisdiction all debts or sums of money due to it;
 - (c) taking, acquiring by grant, purchasing, taking on lease, property (whether situated in Queensland or elsewhere);
 - (d) accepting gifts, grants, bequests or devises and creating and administering trust funds;
- and
- (e) doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

95. Composition and role of the Association. (1) All persons as shall be defined by its constitution shall be eligible for membership of the Association.

(2) The Association shall be an organized association of such students and other members for the furthering of the objects of the Association as defined by its constitution.

(3) The Association shall have such role and other powers and authorities and be subject to such obligations as shall, from time to time, be prescribed by or under the Statutes.

(4) It is not the intention of this subdivision that the Association shall be, or shall be regarded as, for any purpose, the servant or agent of the Council of the University College or the University College.

96. Constitution of the Association. The constitution of the Association and all amendments thereto or alterations or modifications thereof shall be submitted to the Council of the University College and shall have no force or effect unless and until approved by the Council of the University College.

97. Statutes affecting the Association. Except in the case of emergency (of which the Council of the University College shall be sole judge), the Council of the University College shall submit to the Association a draft of any proposed Statute affecting the powers, authorities or obligations of the Association and shall consider any representations the Association may make thereon.

Division 3—Administrative Provisions

Subdivision 1—Administrative Provisions Relating to the Council of the University College

98. Council of the University College deemed to be duly constituted. The Council of the University College shall be deemed to be duly constituted and shall discharge its duties and functions and may exercise its powers and authorities notwithstanding that a member or members have not been appointed or elected as contemplated by section 92 (1) (d), (e), (f), (g) or (h) and notwithstanding any vacancy on that Council provided the number of members of that Council for the time being is not less than 12.

99. Term of appointment. (1) The appointed members of the Council of the University College appointed or elected as contemplated by section 92 (1) (d), (e), (f), (g) and (h) shall, subject to this Part, hold office for a period of three years.

(2) The term of appointment of a member of the Council of the University College appointed pursuant to section 92 (2) shall, subject to this Part, expire on a date determined by the Council of the University College at the time of his appointment but shall not, in any case, exceed three years from the date of his appointment.

(3) (a) Notwithstanding subsections (1) and (2), the Governor in Council, acting on the advice of the Minister and in the interests of uniformity of expiry dates, may reduce the term of appointment of any appointed member of the Council of the University College.

(b) A term of appointment so reduced pursuant to subsection (3) (a) shall expire on the date specified by the Governor in Council, and a vacancy on the Council of the University College within the meaning of section 104 shall result.

100. Failure to appoint, elect or nominate. If a body or persons permitted or required by section 92 (1) to appoint, elect or nominate a person or number of persons to be a member or members of the Council of the University College fails or refuses to appoint, elect or nominate a sufficient number of such persons by a date determined by that Council, the Minister may appoint a sufficient number of persons who shall be deemed to have been appointed, elected or nominated by the body or persons who could or should have appointed, elected or nominated him or them.

101. Eligibility for re-appointment. The appointed members of the Council of the University College shall, if otherwise qualified, be eligible for re-appointment: Provided that a person shall not be eligible to be a member of the Council of the University College, in the same capacity, for more than two consecutive terms of appointment, without the prior approval of the Minister.

102. Disqualification from office. (1) It is not competent to a person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (b) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission which if done or made by him in Queensland would have constituted an indictable offence, unless the Council of the University College is of the opinion that the circumstances of the offence do not warrant disqualification from office;
- or
- (c) is a patient within the meaning of the *Mental Health Services Act 1974-1987*,

to become or continue to be a member of the Council of the University College.

(2) It is not competent to a person who ceases to hold the office or qualification essential to his appointment or election as a member of the Council of the University College in terms of section 92 (1) (e), (f) or (g) or section 92 (2) to continue to be a member of the Council of the University College in terms of the relevant provisions of that section.

103. Vacation of office. An appointed member shall be deemed to have vacated his office as an appointed member if—

- (a) he dies;
- (b) he is absent, without leave granted by the Council of the

University College, from every meeting of that Council, of which due notice has been given to him, in any period of six months;

- (c) he resigns his office by writing under his hand delivered to the Chancellor;

or

- (d) he becomes an *ex officio* member.

104. Vacancy on the Council of the University College from expiry of term of appointment. In the event of a vacancy in the membership of the Council of the University College arising from the expiration of an appointed member's term of appointment, a member shall be appointed, elected or nominated as provided in this Part or, in the case of a member appointed pursuant to section 92 (2), may be appointed as provided in this Part.

105. Casual vacancies on the Council of the University College. In the event of a casual vacancy in the office of an appointed member of the Council of the University College, a member shall be appointed, elected or nominated—

- (a) in such cases and in such circumstances as are specified in the Statutes, in the manner prescribed by the Statutes;

or

- (b) where no cases or circumstances are so specified in the same manner as that in which the member whose office is vacant was appointed, elected or nominated,

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

106. Temporary replacement of member. If—

- (a) an appointed member of the Council of the University College is or may be prevented by absence, illness or other cause whatsoever, from performing his duties as a member of that Council;

and

- (b) the person who, or the executive or other group or person charged with the management of the affairs of the body which appointed, elected or nominated such member, is or are of the opinion that the member will be so prevented from performing those duties during the period during which two or more ordinary meetings of that Council may be held,

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

107. Election of Chancellor of the University College. (1) There shall be a Chancellor of the University College who shall hold office for a period (not exceeding the period until the first Council of the University is constituted under section 76) and on such conditions as are prescribed by the Statutes.

(2) The Council of the University College at its first meeting after its constitution pursuant to section 92 and thereafter whenever a vacancy occurs, shall elect a Chancellor.

(3) The Chancellor may be elected from amongst the members of the Council of the University College or otherwise.

An enrolled student, a member of the academic staff or any other employee of the University College shall not be elected as the Chancellor.

(4) When the person elected as Chancellor is already an appointed member of the Council of the University College at the time of his election, the office that he held as such a member shall be declared vacant, and thereupon the appropriate steps shall be taken pursuant to section 105.

(5) Notwithstanding the provisions of this section, the election of the first Chancellor of the University College shall be as prescribed in section 147.

108. Election of Deputy Chancellor of the University College. (1) There shall be a Deputy Chancellor of the University College who shall hold office for one year from the date of his election pursuant to subsections (2) and (3) or until the election, pursuant to subsection (2), of another Deputy Chancellor in the event of a vacancy, whichever first occurs, and on such conditions as are prescribed by the Statutes.

(2) The Council of the University College at its first meeting after its constitution pursuant to section 92 and thereafter whenever a vacancy occurs, shall elect a Deputy Chancellor.

(3) The Council of the University College shall elect one of its members to be Deputy Chancellor.

(4) In the absence of the Chancellor or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor shall have all the powers and duties of the Chancellor.

(5) Notwithstanding the provisions of this section, the election of the first Deputy Chancellor of the University College shall be as prescribed in section 147.

109. Chairmanship of the Council of the University College. (1) The Chancellor shall be the chairman of the Council of the University College and shall preside at all meetings of that Council at which he is present.

(2) At any meeting of the Council of the University College at which the Chancellor is not present—

(a) the Deputy Chancellor;

or

(b) where the Deputy Chancellor is not present, a member of the Council elected by and from the members present, shall preside.

110. Appointment of Vice-Chancellor. (1) The Council of the University College shall appoint a person to be Vice-Chancellor who, on and from the date of assuming such office, shall be an officer of the University College.

(2) Whenever a vacancy occurs in the office of Vice-Chancellor, the Council of the University College shall, subject to subsections (4) and (5), appoint a person to be Vice-Chancellor.

(3) Subject to subsection (4), the Vice-Chancellor shall be appointed for a period and on such conditions as the Council of the University College determines.

(4) Any appointment made under this section and the period and conditions of such an appointment, other than an appointment made under subsection (5), shall be of no force and effect unless and until the same are approved by the Governor in Council.

(5) The Council of the University College may, during any vacancy in the office of Vice-Chancellor or during any absence of the Vice-Chancellor or inability of the Vice-Chancellor to perform the duties of his office as such, appoint a person to be Acting Vice-Chancellor for such period and on such conditions as the Council of the University College determines provided that the period of any such appointment shall not exceed 12 months.

Any person appointed under this subsection shall, during the term of his appointment, possess all the powers and perform all the duties of the Vice-Chancellor.

(6) The Vice-Chancellor shall be the chief executive officer of the University College and shall possess such powers and perform such duties as the Statutes prescribe or, subject to the Statutes, as the Council of the University College determines.

(7) Notwithstanding the provisions of this section, the appointment of the first Vice-Chancellor of the University College shall be as prescribed in section 146.

(8) (a) Subject to section 115, the Vice-Chancellor may, either generally or otherwise as provided by the instrument of delegation, by instrument in writing under his hand, delegate to any officer of the University College who, for the time being holds or performs the duties of any office, or any other person all or any of the powers or functions,

except this power of delegation, incidental in the discharge of the responsibilities of the Vice-Chancellor.

(b) A delegation of a power or function may be made subject to conditions and limitations or absolutely and shall not prejudice the making by the Vice-Chancellor of other delegations of the same power or function.

(c) A delegate to whom a power or function has been so delegated may, while the delegation subsists, do and suffer all such acts and things in accordance with the terms of the delegation as he thinks necessary or expedient to the proper discharge of the power or function.

(d) An act or thing done or suffered by a delegate acting in accordance with a delegation has the same force and effect as if the act or thing had been done or suffered by the Vice-Chancellor.

(e) A delegation of a power or function incidental in the discharge of a responsibility of the Vice-Chancellor shall not—

- (i) affect the exercise or discharge of the power or function by the Vice-Chancellor;
- or
- (ii) relieve the Vice-Chancellor from his obligation to ensure that the responsibility is properly discharged.

111. Quorum of the Council of the University College. At any meeting of the Council of the University College, a quorum shall be one-half, or if one-half is not a whole number, the whole number next higher than one-half of the total number of members for the time being of that Council.

112. Re-election or re-appointment. Subject to this Part, a person may be re-elected to the office of Chancellor or Deputy Chancellor or re-appointed to the position of Vice-Chancellor if he is otherwise capable for the time being of holding that office or position.

113. Validity of proceedings. No proceedings of the Council of the University College, or of any committee thereof or of any committee or board of the University College, and no act done by the Chancellor, Deputy Chancellor, Vice-Chancellor or any other officer whilst any of those persons is acting pursuant to and in accordance with the Statutes in the office to which he was elected or appointed shall be invalidated by reason of—

- (a) any defect in the appointment or election of, or of any disqualification of, any member of the Council of the University College or of any committee or board of the University College;
- (b) any defect in the convening or conduct of any meeting of the Council of the University College or any committee

- thereof or of any committee or board of the University College;
- (c) there being any vacancy in the number of members of the Council of the University College or any committee thereof or of any committee or board of the University College;
- (d) the fact that a person purporting to be a member of the Council of the University College or any committee thereof or of any committee or board of the University College by virtue of an office held by him did not hold that office;
- or
- (e) the fact that a person purporting to be a member of the Council of the University College or any committee thereof or of any committee or board of the University College was not such a member.

114. Powers of the Council of the University College. Subject to this Part and the Statutes, the Council of the University College—

- (a) shall have full power and authority to appoint and dismiss members of the academic or other staff of the University College;
- (b) subject to paragraph (c) shall have the entire management and control of the affairs, concerns and property of the University College and may act in all matters concerning the University College in such manner as appears to it best calculated to promote the interests and purposes of the University College;
- and
- (c) shall have the entire management and control of the finances of the University College.

115. Delegation by the Council of the University College. (1) The Council of the University College may, in relation to any matter or class of matters, or in relation to any activity or function of the University College, by resolution, delegate all or any of its powers and authorities, duties and functions under this Part, except this power of delegation and its powers in relation to the making of Statutes or rules and its duties in relation to the annual adoption of a budget and the approval of the proposed distribution of funds referred to in section 126, to any member of that Council or to any committee or board appointed by that Council, or to any officer or officers of the University College.

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

(3) A power, authority, duty or function delegated by the Council of the University College may be exercised or performed by the delegate—

(a) in accordance with the resolution of delegation;

and

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

Subdivision 2—Regulations, Statutes and Rules

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

(2) The Statutes and rules made pursuant to this Part shall be read subject to the regulations made under this Part to the extent that where there is an inconsistency between a Statute and a regulation, or a rule and a regulation, the regulation shall prevail.

117. Statutes. (1) The Council of the University College may from time to time make Statutes not inconsistent with this Part for the carrying into effect of the several provisions, intentions and objects of this Part, and generally for the control, management, good government and discipline of the University College.

(2) Without limiting the powers of the Council of the University College in that behalf, the Council of the University College may make Statutes with respect to all or any of the following matters:—

(a) the use and custody of the common seal;

(b) the election, appointment or nomination of—

(i) members of the Council of the University College;

(ii) committees or boards established by the University College (the establishing of which is hereby authorized);

(c) the manner and time of convening, holding and adjourning the meetings of the Council of the University College; voting at meetings of the Council of the University College; the powers and duties of the person acting as chairman thereof; the conduct and record of the business of the Council of the University College; the establishment and appointment of committees of the Council of the University College, and the quorum, powers and duties of such committees; and the reimbursement of expenses of the Chancellor, Deputy

- Chancellor and other Council of the University College members attendant upon such offices;
- (d) the resignation of members of the Council of the University College, the Chancellor and the Deputy Chancellor of the University College;
 - (e) the appointment of a person to act for the Deputy Chancellor of the University College during the illness or absence of that officer;
 - (f) the number, appointment, termination of appointment, discipline (including the dismissal, suspension and imposition of disciplinary punishments other than dismissal or suspension) and, subject to applicable awards or industrial agreements, the stipends or salaries or wages of members of the staff and other officers and employees of the University College;
 - (g) subject to section 135, the provision of superannuation schemes for staff of the University College;
 - (h) the admission and enrolment of students;
 - (i) the discipline of enrolled students;
 - (j) the admission of students of universities and other institutions of higher education to any corresponding status or of graduates of such universities and institutions to any corresponding degrees or diplomas without examination;
 - (k) the determination of courses of study and examinations for degrees, diplomas and other awards;
 - (l) the granting of degrees, diplomas and other awards including honorary awards;
 - (m) the granting of fellowships, scholarships, exhibitions, bursaries and prizes;
 - (n) the fees and charges, including fines, to be paid for admission to the University College, examinations, for the granting of degrees, diplomas, and other awards, for tuition or attendance at the lectures and classes of the University College, offences involving vehicles, for the development and use of University College services and facilities including residence and in respect of the Association;
 - (o) the exemption from or deferment of payment of fees and charges, including fines;
 - (p) the collection in respect of any fee, charge or other imposition arising from any higher education contribution scheme as provided for under any Act passed by the Commonwealth in respect thereof;
 - (q) the establishment, management, and control of libraries and other support facilities in connexion with the University College;
 - (r) the affiliation, association or connexion with the University College of any educational or research establishment

wheresoever situated, to which the governing body of such establishment may consent;

- (s) the control and investment of the property of the University College, including property held upon trust or subject to a condition;
- (t) the protection of the property of, or under the control of, the University College from trespass or damage or misuse;
- (u) the regulation and control of access to and the use of land and buildings the property of, or under the control of, the University College and of the conduct of persons and the presence and use of vehicles thereon;
- (v) the powers, authorities, duties and obligations of the Association;
- (w) the form and use of arms, emblems or armorial bearings of the University College;
- (x) the ownership and exploitation of inventions and discoveries, that are the property of the University College, made by the staff or enrolled students of the University College;
- (y) the establishment, conduct, management and maintenance of residential colleges and halls of residence within the University College or of affiliated residential colleges;
- (z) the form and use of academic dress;
- (aa) the definition of and procedures to be applied in situations of conflict of interests with respect to members of the Council of the University College and the staff of the University College;
- (ab) the granting of financial and other assistance to students of the University College;
- (ac) the determination of the persons or class of persons who constitute the academic staff of the University College.

(3) Without limiting the generality of the powers conferred by subsection (1), a Statute made pursuant to subsection (2) (u)—

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

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

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

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

In this subsection, the term “site” means any land or premises the property of or under the control of the University College.

(4) The Council of the University College may by Statute repeal, rescind, revoke, alter, vary, amend or otherwise modify any Statute or part of a Statute.

(5) A Statute may authorize the Council of the University College to make rules (not being inconsistent with this Part or the Statutes) for the carrying into effect of all or any of the provisions and objects of the Statute and may prescribe procedures for the promulgation of such rules.

(6) (a) All rules made by the Council of the University College pursuant to any Statute shall be promulgated as specified in the Statute.

(b) All rules shall be of full force and effect as from the day on which they are promulgated or from such later date as may be specified in the rules.

(c) The production of a verified copy of any such rule under the common seal of the University College is sufficient evidence of the making and authenticity of the same in all Courts and before all persons acting judicially.

(7) A Statute may impose or authorize the Council of the University College or any officer of the University College to impose a penalty not exceeding 10 penalty units for breach of any provision and provide for the recovery and enforcement of any such penalty.

(8) Where no other provision is made for the recovery or enforcement of a penalty imposed by or under the authority of a Statute, such

penalty may be recovered or enforced by complaint in a summary way under the *Justices Act 1886-1988*.

118. Statutes to be approved by Governor in Council. (1) Every Statute made by the Council of the University College shall be sealed with the common seal of the University College, and shall be transmitted to the Minister to be dealt with in accordance with this section.

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

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

Subdivision 3—Provisions Relating to Companies, Joint Agreements and Arrangements, Agreements for Use of Facilities and Staff

119. Formation of and participation in companies, etc. (1) The University College, in the performance of its functions under this Part and without limiting the provisions of section 89 (2) (f), may be a member of, or form or participate in the formation of, or manage a company, whether incorporated, established or entered into within or outside the State, the objects or purposes of which include one or more of the following objects or purposes:—

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

(2) The University College, or any company of which the University College is a member, or which is formed, participated in or managed by the University College, may enter into any agreement or arrangement with any company the objects of which include one or more of the

objects and purposes specified in subsection (1) (a) to (g) both inclusive, in respect of any of those lastmentioned objects and purposes.

120. Use of facilities and staff. The University College, in such circumstances and subject to such terms and conditions as the Council of the University College thinks fit, may contract or otherwise enter into an arrangement with any person or body for the use by him or it of the facilities and staff of the University College.

121. Companies to furnish returns, etc. Any company—

(a) formed by the University College pursuant to section 119;

(b) managed by the University College;

or

(c) of which the University College becomes a member,

shall furnish the Council of the University College with such reports, returns and information relative to the company's affairs as are from time to time required by that Council.

122. Audit requirements. Section 46I of the *Financial Administration and Audit Act 1977-1988* applies, to the extent provided by that section, to any company of a kind referred to in section 121.

Subdivision 4—General Administrative Provisions

123. Annual Report. The Council of the University College shall, as soon as practicable but no later than four months from 31 December each year, prepare and transmit to the Minister a report of the University College during that year, in accordance with the provisions of the *Financial Administration and Audit Act 1977-1988*.

124. Tabling of certain subordinate legislation. (1) Section 28A of the *Acts Interpretation Act 1954-1989* applies in respect of Orders in Council and Statutes made for the purposes of this Part, and, for the purposes of that application, that section shall be read and construed as if references to regulations were references to Orders in Council and Statutes made for the purposes of this Part.

(2) Every Proclamation made under this Part shall be laid before the Legislative Assembly within 14 sitting days after publication in the *Gazette*.

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

Division 4—Property and Finance

126. Budget. (1) The Council of the University College shall, in each year, adopt for the next following year commencing on 1 January a budget for all funds of the University College other than those to which subsection (2) relates and shall approve all amendments to the budget and shall control the expenditure of the University College so that it conforms as nearly as practicable to the approved budget.

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

(3) The financial year of the University College shall be the period of 12 months ending on 31 December.

127. Application of revenue by the University College. (1) All fees and all other moneys received by the Council of the University College under this Part or otherwise shall, subject to this Part and to the terms of any applicable trust, be applied by the Council of the University College solely for the purposes of the University College.

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

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

is an application of those moneys for the purposes of the University College.

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

- (a) by way of loan from the Treasurer;
- (b) by way of loan or overdraft from any bank;
- or

(c) by way of loan from any other person or body, upon, at and subject to such security, rate of interest and other terms

and conditions as the Council of the University College, subject to the approval of the Governor in Council, thinks fit.

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

(3) The University College is a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982-1989*.

129. University College may accept gifts, etc., subject to conditions, and establish trust funds. In exercising its power to take, acquire by grant, purchase or take on lease any property the University College may agree to and carry out any conditions of any gift, grant, bequest, devise or other means whereby it takes or acquires any property or of any such purchase or lease and the Council of the University College may—

- (a) create;
- (b) administer;
- or
- (c) create and administer,

any trust fund or funds in connexion therewith or for any other purpose whatsoever.

130. Powers of investment. (1) The Council of the University College may establish one or more investment common funds for the collective investment of any trust and other moneys held by or in the custody of the University College.

(2) The Council of the University College may from time to time without liability for breach of trust bring into or withdraw from any such investment common fund the whole or any part of any moneys of the University College or of any trust moneys or any other moneys held by or in the custody of the University College.

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

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

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

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

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

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

131. Variation of terms of trusts and gifts. (1) Where any property is held by or for the University College either at the date of the commencement of section 89 or at any time thereafter on terms requiring such property or the income therefrom to be applied for a purpose or purposes and—

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

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

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

(3) A scheme prepared pursuant to subsection (1) shall have no effect unless and until approved by the Governor in Council.

(4) A scheme approved by the Governor in Council under subsection (3) is, in this section and sections 132 and 133, in relation to the property or part or residue thereof concerned, called the "approved scheme" and shall be published in the *Gazette*.

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

132. Amendment of approved scheme. (1) If the Council of the University College desires from time to time to amend an approved scheme it shall submit its amendment or amendments to the Governor in Council.

(2) An amendment to an approved scheme proposed pursuant to subsection (1) shall have no effect unless and until approved by the Governor in Council.

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

133. Provisions relating to approved schemes. (1) Where property the subject of an approved scheme consists (wholly or in part) of land, the University College shall within one calendar month after the publication in the *Gazette* of the approved scheme and within one calendar month after the publication in the *Gazette* of every amendment thereof, notify the authority charged in law with the registration of dealings relating to the said land of the approved scheme or, as the case may be, amendment, and that authority shall cause to be made in the appropriate register all such entries as are necessary to record particulars of the approved scheme or amendment.

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

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

(4) The powers conferred by this section and sections 131 and 132 are in addition to any other powers or rights exercisable in law in respect of property held by the University College upon trust.

134. Accounts and Audit. The provisions of the *Financial Administration and Audit Act 1977-1988* apply, to the extent provided by that Act, to the Council of the University College in respect of the financial proceedings of the University College.

135. Superannuation scheme or arrangement. (1) The Council of the University College is authorized to establish or participate in a provident scheme or arrangement or a scheme or arrangement that secures superannuation benefits for employees of the University College.

(2) It shall not be competent to the Council of the University College—

(a) to establish or to commence to participate in a scheme or arrangement such as is referred to in subsection (1);

or

(b) to amend a scheme or arrangement such as is referred to in subsection (1) established by the Council of the University College,

unless the approval of the Governor in Council has first been obtained to the establishment, participation or amendment, as the case may be.

(3) The Governor in Council may grant the approval referred to in subsection (2) subject to such conditions as he sees fit including a condition that the terms and conditions of a scheme or arrangement established or participated in or amended by the Council of the University College shall include a provision authorizing the Auditor-General or a person authorized by him for that purpose to audit the accounts and records of the financial transactions of the University College in respect of that scheme or arrangement.

When the Auditor-General is so authorized he shall have with respect to such audit all the powers and authorities conferred on him by the *Financial Administration and Audit Act 1977-1988*.

Division 5—Transitional and Special Arrangements for the University College

Subdivision 1—Provisions Relating to the Institute

136. Institute to cease to exist. The Institute shall cease to exist on the commencement of section 89.

Subdivision 2—Provisions Relating to the Council of the Institute

137. Council of the Institute to cease to exist. The chairman and each other member of the Council of the Institute holding office as such

immediately prior to the commencement of section 89 shall go out of office forthwith on such commencement and the Council of the Institute shall thereupon cease to exist.

138. Effect of cessation of the Council of the Institute. (1) Where, after the commencement of section 137, property would have passed by any testamentary disposition or otherwise to or for the benefit of the Council of the Institute, if it were still in existence, that property shall pass to or for the benefit of the University College, and shall vest in the University College of Southern Queensland, but without prejudice to any lawful claim of any person in relation to that property.

(2) All property and other assets which immediately prior to the commencement of section 137 were held by or vested in the Council of the Institute shall, on that commencement, be divested from that Council and shall vest in the University College.

(3) If any property vested in the University College by subsection (2) is or shall be subject to any condition or trust, that property shall be held by the University College subject to the conditions or trusts on which it was held immediately before that vesting.

Any reference in any such conditions or trusts to the Council of the Institute shall, on and from the commencement of section 137, be read and construed as a reference to the University College.

(4) All rights and entitlements accruing or accrued to the Council of the Institute in respect of any property or assets vested in the University College pursuant to subsection (2) are hereby vested in and may be enforced by the University College.

(5) All liabilities of the Council of the Institute in respect of any property vested in the University College pursuant to subsection (2) may be enforced against the University College.

(6) All suits, actions and proceedings and all causes of action pending or existing immediately prior to the commencement of section 137 by or against the Council of the Institute may be carried on and prosecuted by or against the University College and no such suit, action or proceeding shall abate or be prejudicially affected by this Part.

(7) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Council of the Institute existing at the commencement of section 137 shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the University College and may be enforced by or against the University College accordingly.

(8) All other matters commenced by the Council of the Institute pursuant to the performance of its functions and which remain incomplete at the commencement of section 137 shall be continued by the University College, provided such matters are not inconsistent with the functions of the University College under this Part.

(9) Where title to any property vested in or otherwise transferred by this Act to the University College is registered in any register, the

person having charge of the register, upon a request made to him in writing by or on behalf of the University College, shall make all entries in the register to record the vesting of that property in accordance with this Act.

No stamp duty, fees or other charges shall be payable in respect of the request.

139. Employment of staff of the Council of the Institute. (1) In this section and section 140, "officer of the Institute" means a person who immediately prior to the commencement of section 137 held any salaried office or employment with the Council of the Institute or had been appointed to the staff of the Institute but had not taken up duty.

(2) Subject to section 146, every officer of the Institute shall, on the commencement of this section, become an officer of the University College on such terms and conditions, subject to any applicable award or industrial agreement, as the Council of the University College may determine, but no less favourable than the terms and conditions upon which he was employed at the Institute immediately before that commencement.

(3) A person who becomes an officer of the University College pursuant to subsection (2) shall—

- (a) retain any rights accrued or accruing as an officer of the Institute;
and
- (b) be entitled to receive annual, sick and long service leave and any similar entitlement accrued or accruing to him as an officer of the Institute,

and his service as an officer of the Institute shall be deemed to be service as an officer of the University College for the purposes of any law under which those rights accrued or were accruing or by which that entitlement is conferred.

(4) A person who becomes an officer of the University College pursuant to this section is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

140. Superannuation entitlements. (1) A person who, pursuant to section 139, becomes an officer of the University College shall—

- (a) retain all entitlements accrued or accruing to him as a contributor to a fund under the *Public Service Superannuation Act 1958-1989*, the *State Service Superannuation Act 1972-1989* or the *Superannuation (Government and Other Employees) Act 1988*;
and
- (b) be deemed to be an officer or member, as the case may be, within the meaning of each of those Acts and shall—
 - (i) subject to subsection (2), continue to contribute to that fund;

and

- (ii) be entitled to payments and other benefits therefrom in respect of himself, his widow and any child of his.

(2) Without derogating from the provisions of subsection (1), an officer of the University College within a class or classes to be prescribed by Statute may contribute to such other superannuation scheme established or participated in pursuant to section 135 in lieu of continuing to contribute to the scheme or schemes referred to in subsection (1): Provided that a person's eligibility to continue to be a member under the *Superannuation (Government and Other Employees) Act 1988* shall not be affected by any arrangements made pursuant to this subsection.

Subdivision 3—Provisions Relating to the Union and the Association

141. Union to cease to exist. The Darling Downs Institute of Advanced Education Union shall cease to exist on the commencement of section 89.

142. Provisions relating to the Union. (1) Where, after the commencement of section 141, property would have passed by any testamentary disposition or otherwise to or for the benefit of the Union, if it were still in existence, that property shall pass to or for the benefit of the Association, and shall vest in the Association, but without prejudice to any lawful claim of any person in relation to that property.

(2) All property which immediately prior to the commencement of section 141 was held by or vested in the Union shall, on that commencement, be divested from the Union and shall vest in the Association.

(3) If any property vested in the Association by subsection (2) is or shall be subject to any condition or trust, that property shall be held by the Association subject to the conditions or trusts on which it was held immediately before that vesting.

Any reference in any such conditions or trusts to the Union shall, on and from the commencement of section 141, be read and construed as a reference to the Association.

(4) All rights accruing or accrued to the Union in respect of any property vested in the Association pursuant to subsection (2) are hereby vested in and may be enforced by the Association.

(5) All liabilities of the Union in respect of any property vested in the Association pursuant to subsection (2) may be enforced against the Association.

(6) All suits, actions and proceedings and all causes of action pending or existing immediately prior to the commencement of section 141 by or against the Union may be carried on and prosecuted by or against the Association and no such suit, action or proceeding shall abate or be prejudicially affected by this Part.

(7) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Union existing at the

commencement of section 141 shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Association and may be enforced by or against the Association accordingly.

(8) All other matters commenced by the Union pursuant to the performance of its functions and which remain incomplete at the commencement of section 141 shall be continued by the Association, provided such matters are not inconsistent with the functions of the Association under this Part.

143. Officers of the Union. (1) Any person who immediately prior to the commencement of section 141 holds any office with the Union as provided for in the Union's Constitution shall, by virtue of this section, hold the corresponding office with the Association, on such terms and conditions as that office was held with the Union.

(2) Any person who immediately prior to the commencement of section 141 held any salaried office or employment with the Union other than as provided for in subsection (1) or who had been appointed to the staff of the Union but had not taken up duty, shall continue in employment with the Association, or be entitled to take up employment with the Association, as the case may be, on the same terms and conditions of employment upon which he was employed or had been appointed with or by the Union.

(3) A person who pursuant to subsections (1) and (2) becomes an officer or employee of the Association retains any rights accrued or accruing to him as an officer or employee of the Union.

144. Constitutional arrangements. (1) For the purpose of facilitating and enabling the preparation and adoption of a constitution by the Association upon the commencement of section 94, the provisions of the Constitution of the Union, as in force immediately prior to that commencement with respect to membership and meetings, including the holding, notification and conduct of meetings with all necessary adaptations and with such modifications as the Council may deem expedient, shall be applicable to the Association and until a constitution is first adopted after the commencement of section 94, membership of the Association shall be, and meetings shall be held, called and conducted in accordance with those provisions as so adapted and modified.

(2) In so far as the provisions referred to in subsection (1) do not extend, the Council of the University College may give such directions, not inconsistent with this Part, as it deems expedient for the purpose of facilitating and enabling the preparation and adoption of a constitution by the Association and all things done and steps taken by or in relation to the Association in accordance with such directions shall be of full force and effect and binding on the Association and all persons.

Subdivision 4—Provisions for First Council of the University College

145. Constitution of first Council of the University College. (1) (a) There shall be a first Council of the University College constituted as provided for in this subdivision.

(b) The first Council of the University College shall be constituted from the commencement of this section.

(2) The provisions of this Part apply to the first Council of the University College except where this subdivision provides otherwise.

(3) The first Council of the University College shall have and may exercise such powers and authorities as are vested in the Council of the University College by this Part: Provided that, in the period between commencement of this section and the commencement of section 89, the powers and authorities of the first Council shall be limited to the doing of such matters and things as are necessary or expedient to facilitate the establishment of the University College on the commencement of section 89.

(4) The first Council of the University College shall consist of those members of the Council of the Institute holding office immediately prior to the commencement of this section.

(5) The members of the first Council of the University College shall, subject to this Act, hold office until the Council of the University College duly constituted pursuant to section 92 assumes office.

(6) The first meeting of the first Council of the University College shall be convened by the first Vice-Chancellor who shall preside until a Chancellor is elected pursuant to section 147.

(7) The first Council of the University College shall make Statutes and shall take steps that in its opinion are necessary or expedient to ensure that a Council of the University College is duly constituted pursuant to section 92 on or before the date that is 180 days from and after the commencement of section 89 or such later date as is specified in a Proclamation made at any time prior to the firstmentioned date.

146. Appointment of first Vice-Chancellor of the University College.

(1) The first Vice-Chancellor of the University College shall be the person who immediately prior to the commencement of section 136 held office as Director of the Institute.

(2) The period of appointment of the first Vice-Chancellor pursuant to subsection (1) shall be until the Council of the University College duly constituted pursuant to section 92 assumes office.

The conditions of appointment of the first Vice-Chancellor shall be—

- (a) as determined by the first Council of the University College by resolution in that behalf;
- (b) of no force and effect unless those conditions are approved by the Governor in Council.

The person who is appointed first Vice-Chancellor pursuant to subsection (1) shall, as an officer of the University College pursuant to section 139 (2)—

- (a) not be entitled to claim, both under section 139 and this section, a benefit for the same purpose in respect of that period of appointment;
- (b) from and after the termination of that period of appointment, be subject to the terms and conditions referred to in section 139 (2), but no less favourable than the terms and conditions upon which he was employed as Director of the Institute immediately before the commencement of section 139.

(3) Subsection (2) does not derogate from the Council of the University College's ability to subsequently make a Statute in relation to the period and conditions of appointment of the Vice-Chancellor of the University College.

147. Election of first Chancellor and Deputy Chancellor of the University College. (1) The members of the first Council of the University College shall, at their first meeting, elect from among their number, a Chancellor and a Deputy Chancellor.

(2) Such election shall not create casual vacancies in the membership of the first Council of the University College.

(3) The Chancellor and Deputy Chancellor elected as prescribed in subsection (1) shall vacate their offices when the Council of the University College duly constituted pursuant to section 92 assumes office.

(4) Unless the first Council of the University College prescribes otherwise by Statute, the conditions of holding office of the first Chancellor and first Deputy Chancellor, other than the period prescribed in subsection (3), shall be limited to reimbursement of reasonable expenses attendant upon such offices as are approved from time to time by the first Council of the University College.

148. Casual vacancies on the first Council of the University College. If a casual vacancy occurs in the office of any member of the first Council of the University College, the Minister may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of appointment.

Subdivision 5—Provisions Relating to Students and Awards

149. Enrolment of students in courses. (1) Each person who was, immediately prior to the commencement of section 89, a student of the Institute enrolled in a higher education course shall, on that commencement, become a student of the University College and be enrolled in a higher education course that is substantially the same, in academic content, as the higher education course in which the student was enrolled at the Institute.

(2) The University College shall provide such courses of study as are necessary for the purposes of subsection (1).

150. Awards. (1) If a student is enrolled in a course of study pursuant to section 149 (1), the University College shall, as far as it may practicably do so, give the student credit in that course for any subject or work completed by the student in the higher education course in which the student was previously enrolled.

(2) A student who satisfactorily completes a higher education course in 1989 and who has not been granted an academic award of the University College by the date of commencement of section 89 shall be granted an academic award under the common seal of the University College.

Subdivision 6—General Provisions

151. Compliance with accounts and audit requirements. The Council of the University College shall comply in all respects with the provisions of the *Financial Administration and Audit Act 1977-1988* in the place of the Council of the Institute in respect of the financial year of the Council of the Institute ending on 31 December preceding the commencement of section 137 (if such provisions have not been complied with prior to the commencement of section 137) and any financial statements prepared by the Council of the University College in respect of that period in the place of the Council of the Institute shall have the same force and effect as if they had been prepared by the Council of the Institute.

152. Compliance with annual reporting requirements. The Council of the University College shall comply in all respects with the provisions of the *Financial Administration and Audit Act 1977-1988* in the preparation of the annual report on the operations of the Council of the Institute in respect of the financial year ending on 31 December preceding the commencement of section 137, if the Council of the Institute has not already done so prior to the commencement of section 137.

153. Savings. (1) Unless otherwise expressly prescribed, every approval, determination, authority, certificate, direction, notification, order, permission, appointment, arrangement, prohibition, refusal, registration or other act of authority made, granted, issued, done or otherwise originated by the Council of the Institute under Division III of Part VIIA, Part VIII and Divisions I, II, III, V and VI of Part VIIIA of the *Education Act 1964-1989*, or under any regulation, by-law or rule made in respect of the Institute, Council of the Institute or Union under the *Education Act 1964-1989* in relation to the subject matter or operation of the preceding Divisions and Parts shall, subject as hereinafter provided, continue in force for the purposes of this Part as fully and effectually as if it had been granted, issued, done or otherwise originated under a corresponding provision of this Part including a corresponding regulation, Statute or rule (and shall, where necessary, be deemed to have so originated) until it expires by effluxion of time or is rescinded, repealed, revoked, cancelled, suspended, or otherwise determined under this Part: Provided that every such approval, determination, authority, certificate, direction, notification, order, permission, appointment,

arrangement, prohibition, refusal, registration or other act of authority shall be read and construed subject to this Part.

(2) Nothing in this section limits the operation and effect of the *Acts Interpretation Act 1954-1989*.

154. By-laws to be Statutes. Without derogating from the provisions of section 153 and subject to any necessary adaptation and to the extent that the same may reasonably apply—

- (a) all by-laws made by the Council of the Institute under the *Education Act 1964-1989* and in force immediately prior to the commencement of section 145;
- (b) all rules made by the Council of the Institute pursuant to those by-laws,

shall be deemed to be the Statutes and rules of the University College made by the Council of the University College until such time as Statutes and rules are made pursuant to this Part.

155. Construction of references. Unless the context otherwise indicates or requires, a reference in any other Act, by-law, regulation or other statutory instrument to the Council of the Institute shall be read as a reference to the Council of the University College, and a reference to the Institute shall be read as a reference to the University College.

156. Governor in Council may prescribe. The Governor in Council may by Order in Council prescribe with respect to all matters that are necessary or desirable for effectually achieving the objects and purposes of this Part.