

Queensland



# **AGRICULTURAL COLLEGES ACT 1994**

**Act No. 58 of 1994**

# Queensland



## AGRICULTURAL COLLEGES ACT 1994

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Queensland



## **Agricultural Colleges Act 1994**

**Act No. 58 of 1994**

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**An Act about agricultural colleges**

*[Assented to 4 November 1994]*

The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### Short title

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

### Commencement

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

### Definitions

3. In this Act—

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

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

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

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

“**college board**” see section 6.

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

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

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

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

“**State land**” means land—

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

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

### **Declaration of agricultural colleges**

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

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

### **Application of Vocational Education, Training and Employment Act 1991**

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

- section 38 (Powers incident to maintaining State colleges)
- section 42 (Approved scheme)
- section 43 (Variation of trust purposes)
- section 44 (Amendment of approved scheme)
- section 45 (Requirement for schemes)
- section 46 (Recording schemes in land register)
- section 47 (Rights and jurisdiction in equity not affected)
- section 48 (Disposal of moneys)
- section 52 (Establishment and constitution of councils)
- section 53 (Functions of State college council)
- section 54 (Appointment of members)
- section 55 (Removal of members)
- section 56 (Chairperson, deputy chairperson)



- section 57 (Vacancy in membership)
- section 58 (Filling casual vacancies).

## **PART 2—AGRICULTURAL COLLEGE BOARDS**

### *Division 1—College board establishment and general powers and functions*

#### **Board of trustees**

**6.(1)** There is a board of trustees for each college (the “college board”).

**(2)** The college board—

- (a) is a corporation with perpetual succession; and
- (b) has a common seal; and
- (c) may sue and be sued in its corporate name.

**(3)** The corporation’s name is the ‘[Name of locality] Agricultural College Board’.

**(4)** For subsection (3), the Minister may, by Gazette notice, nominate the name of the locality for inclusion in the corporation’s name.

#### **Functions of college board**

**7.(1)** The college board for a college is the college’s governing body.

**(2)** The college board has the functions conferred on it by this or another Act.

**(3)** Without limiting subsection (2), the college board’s functions include—

- (a) ensuring the college provides education at an appropriate standard about things connected with rural industry; and
- (b) ensuring the college provides accredited courses of study at levels of achievement approved by the Minister; and

- (c) helping the director assess overall staff and student performance; and
- (d) helping in college operations by providing board representation—
  - (i) on college committees; and
  - (ii) in proceedings to decide appeals by students against assessment, exclusion or discipline; and
- (e) communicating information about the college to the community; and
- (f) encouraging the establishment of local industry advisory committees in cooperation with any industry training advisory body for rural industry for the area served by the college; and
- (g) monitoring rural industry training needs for the area served by the college.

### **Powers of college board**

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

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

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

- (a) to appoint the college's staff, including the secretary of the college board; and
- (b) to manage and control the college's affairs and property; and
- (c) to manage and control the college's finances; and

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

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

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

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

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

### **Way college board must act**

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

### **College board is subject to direction**

10. Despite a college board's powers, it must comply with a written

direction given to it by the Minister about its policy, or the exercise of its functions or powers.

### **Delegation**

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

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

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

### *Division 2—College board composition and members*

### **Membership of college board**

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

### **Official members**

**13.(1)** There are 3 official members.

**(2)** The official members are—

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

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

### **Appointed members**

**14.(1)** There are 9 appointed members.

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

**(3)** The appointed members are—

- (a) 3 residents of the area served by the college; and
- (b) 1 nominee of—
  - (i) the local government for the local government area in which the college is situated; or
  - (ii) if the local government is a city or town and there is an adjoining shire—the adjoining shire; and
- (c) 1 staff member of the college nominated by college staff; and
- (d) 1 nominee of the Primary Industries Corporation; and
- (e) 3 nominees of the Minister.

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

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

### **Term of appointment**

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

### **Failure to nominate**

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

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

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

**Person may act as appointed member**

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

**Vacation of office**

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

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

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

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

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

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

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

**Deputy chairperson**

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

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

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

#### ***Division 4—Meetings of college board***

##### **Who is to preside at meetings of college board**

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

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

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

##### **Quorum**

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

##### **Conduct of meeting**

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

#### ***Division 5—Other provisions about college board members***

##### **Entitlements of college board members**

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

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

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

### **Training for college board members**

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

## **PART 3—THE DIRECTOR**

### **Director**

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

### **Acting director**

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



## PART 4—PROPERTY AND FINANCE

### *Division 1—Dealing with State land by college board*

#### **Application of Land Act 1962**

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

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

**(3)** The lease must—

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

### *Division 2—Finance*

#### **Funds**

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

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

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

**Trust fund**

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

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

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

**Loan funds**

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

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

**General fund**

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

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

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

**Other funds**

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

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

**Financial review**

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

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

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

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

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

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

**(2)** Part 4 (other than section 32) of the *Statutory Bodies Financial Arrangements Act 1982* applies to a college board.

**PART 5—COLLEGE RULES****College rules**

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

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

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

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

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

### Notification of college rules

37.(1) A college rule—

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

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

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

## PART 6—GENERAL

### Driver training

38.(1) In this section—

“**driver’s licence**” has the meaning given by the *Traffic Act 1949*.

“**motor vehicle**” has the meaning given by the *Traffic Act 1949*.

“**road**” has the meaning given by the *Traffic Act 1949*.

(2) Despite the *Traffic Act 1949*, a student who is required to drive a motor vehicle on a road or in college grounds as part of the student's training at the college is, while driving the motor vehicle, taken to hold a driver's licence to drive the motor vehicle.

**What happens to assets and liabilities on closure of college**

**39.(1)** This section applies if—

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

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

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

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

**Regulation making power**

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

**PART 7—REPEAL AND TRANSITIONAL****Definitions**

**41.** In this Part—

**“commencing day”** means the day on which this Part commences.

**“repealed Act”** means the *Rural Training Schools Act 1965*.

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

**Repeal**

42. The *Rural Training Schools Act 1965* is repealed.

**Rural training schools**

43. A rural training school in existence immediately before the commencing day is taken to be an agricultural college under this Act.

**Existing boards of trustees**

44.(1) Each corporation in existence under the repealed Act immediately before the commencing day is established as a college board under this Act.

(2) The name of each corporation is changed by omitting 'Rural Training School' and inserting 'Agricultural College'.

(3) The establishment of a corporation as a college board, or its change of name, under this Part does not affect the legal personality of the corporation.

**Property**

45. Property held by a board of trustees for a rural training school under the repealed Act is taken to be held under this Act by the college board for the agricultural college.

**Rules**

46. Rules in force under the repealed Act continue in force as college rules under this Act for 1 year and may be amended or repealed under this Act.

**Staff**

47. A person employed as a director or staff member of a rural training school under the repealed Act immediately before the commencing day is taken to be a director or staff member of the agricultural college on the conditions of employment that applied to the person immediately before the commencing day.

**References to rural training schools etc.**

**48.(1)** This section applies to references in Acts and documents in existence on its commencement.

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

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

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

**Transitional regulations**

**49.(1)** A regulation may make provision with respect to any matter for which—

- (a) it is necessary or convenient to assist the transition from the operation of the repealed Act to the operation of this Act; and
- (b) this Act does not make provision or sufficient provision.

**(2)** A regulation under subsection (1) may be given retrospective operation to a date not earlier than the date of assent.

**Expiry of Part**

**50.** This Part (other than section 48) expires 1 year after it commences.