



Queensland

University Legislation Amendment Act 2005

Act No. 18 of 2005



Queensland

University Legislation Amendment Act 2005

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Queensland

University Legislation Amendment Act 2005

Act No. 18 of 2005

An Act to amend the *Central Queensland University Act 1998*, *Griffith University Act 1998*, *James Cook University Act 1997*, *Queensland University of Technology Act 1998*, *University of Queensland Act 1998*, *University of Southern Queensland Act 1998* and *University of the Sunshine Coast Act 1998*

[Assented to 19 May 2005]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *University Legislation Amendment Act 2005*.

Part 2 Amendment of Central Queensland University Act 1998

2 Act amended in pt 2

This part amends the *Central Queensland University Act 1998*.

3 Amendment of s 11 (Delegation)

Section 11—

insert—

- ‘(3) Despite subsection (2)(c), the council may delegate its power to approve spending of funds available to the university by way of bequest, donation or special grant if—
- (a) the expenditure is for a matter funded by bequest, donation or special grant; and
 - (b) the amount of expenditure for the matter is not more than \$100 000.’.

4 Replacement of ss 12 and 13

Sections 12 and 13—

omit, insert—

‘12 Membership of council

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

‘13 Official members

‘(1) There are 3 official members.

‘(2) The official members are—

(a) the chancellor; and

(b) the vice-chancellor; and

(c) the president of the academic board.’.

5 Amendment of s 14 (Appointed members)

Section 14(1), ‘8’—

omit, insert—

‘5’.

6 Amendment of s 15 (Elected members)

(1) Section 15(1), ‘7’—

omit, insert—

‘3’.

(2) Section 15(2)(a) and (b)—

omit, insert—

‘(a) 1 member of the full-time or part-time academic staff;
and

(b) 1 member of the full-time or part-time general staff;
and’.

(3) Section 15(2)(d)—

omit.

(4) Section 15(3)(a) and (b)—

omit, insert—

‘(a) for an elected member mentioned in subsection (2)(a)—

(i) all the members of the full-time academic staff, and those members of the part-time academic staff eligible under a university statute, may vote; or

(ii) if a statute under subparagraph (i) is not in force, all the members of the full-time and part-time academic staff may vote; or

(b) for an elected member mentioned in subsection (2)(b)—

(i) all the members of the full-time general staff, and those members of the part-time general staff eligible under a university statute, may vote; or

(ii) if a statute under subparagraph (i) is not in force, all the members of the full-time and part-time general staff may vote; or’.

(5) Section 15(3)(d)—

omit.

(6) Section 15(4)—

*omit.***7 Replacement of s 16 (Additional members)**

Section 16—

*omit, insert—***‘16 Additional members**

‘(1) There are 4 additional members.

‘(2) The council must appoint the additional members.

‘(3) The council must appoint at least 2 graduates of the university as additional members.

‘(4) An additional member must not be a student or a member of the university’s academic staff or general staff.’.

8 Amendment of s 17 (When council is taken to be properly constituted)

Section 17, '12'—

omit, insert—

'8'.

9 Amendment of s 18 (Appointed member's term of office)

Section 18, '3 years'—

omit, insert—

'4 years'.

10 Amendment of s 19 (Elected member's term of office)

(1) Section 19(1)—

omit, insert—

'(1) An elected member mentioned in section 15(2)(a) or (b) holds office for 4 years.

'(1A) An elected member mentioned in section 15(2)(c) holds office for 2 years.'

(2) Section 19(2)(a), 'or reappointed'—

omit.

(3) Section 19(1A) and (2)—

renumber as section 19(2) and (3).

11 Replacement of s 20 (Additional member's term of office)

Section 20—

omit, insert—

'20 Additional member's term of office

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

12 Amendment of s 20A (Dealing with casual vacancy in office of an elected member)

(1) Section 20A(5)—

omit, insert—

‘(5) Despite subsection (4), if the elected member was a student, the council may appoint a student to the office.’.

(2) Section 20A(7)—

omit.

13 Replacement of s 21 (Failure to elect or appoint elected members)

Section 21—

omit, insert—

‘21 Failure to elect elected member

‘(1) If an entity permitted to elect an elected member does not elect a person as the elected member by a day fixed by the council by notice given to the entity, the Minister may appoint a member of the entity as the elected member.

‘(2) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).

‘(3) A person appointed under subsection (1) is taken to have been elected by the entity under section 15.

‘(4) This section applies to the periodic election of members and an election required because of a casual vacancy.’.

14 Replacement of s 23 (Ineligibility for membership of council)

Section 23—

omit, insert—

‘23 Ineligibility for membership of council

‘(1) A person is not eligible to become an elected, appointed or additional member if—

(a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6;¹ or

- (b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).
- ‘(2) Also, a person is not eligible to be elected or appointed as an elected, appointed or additional member if the person’s election or appointment as the member would result in the person being a member for 12 years or more, whether continuously or not.
- ‘(3) Subsection (2) does not apply to a person if a majority of members agree the person may be elected or appointed as an elected, appointed or additional member.
- ‘(4) Subsection (1)(b) is subject to sections 25 and 26.’.

15 Amendment of s 24 (Vacation of office)

- (1) Section 24(1)(f) and (g)—
omit, insert—
- ‘(f) the member is removed from office under section 26B;
 or
- (g) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (h) the member is convicted of an indictable offence, other than an offence in relation to which the member’s office becomes vacant under paragraph (g).’.
- (2) Section 24(2)—
omit, insert—
- ‘(2) Subsection (1)(h) is subject to sections 25 and 26.’.

16 Insertion of new pt 2, divs 3A and 3B

After section 26—

insert—

1 Corporations Act, part 2D.6 (Disqualification from managing corporations)

**‘Division 3A Members’ function, and removing
elected, appointed and additional
members from office**

‘26A Member’s function, and obligations about function

- ‘(1) A member has the function of ensuring the council performs its functions and exercises its powers appropriately, effectively and efficiently.
- ‘(2) In performing the function, a member—
 - (a) must act honestly and in the best interests of the university; and
 - (b) must exercise reasonable skill, care and diligence; and
 - (c) must disclose to the council any conflict that may arise between the member’s personal interests and the interests of the university; and
 - (d) must not make improper use of his or her position as a member, or of information acquired because of his or her position as a member, to gain, directly or indirectly, an advantage for the member or another person.

‘26B Council may remove member from office

- ‘(1) The council may remove an elected, appointed or additional member from office if at least 10 members are satisfied the member has not complied with—
 - (a) section 26A(2); or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove a member from office under subsection (1), the council must as soon as practicable—
 - (a) give the member notice of the decision and the reasons for it; and
 - (b) if the member is an appointed member—give the Minister a copy of the notice.

- ‘(3) If the council gives a member a notice under subsection (2)(a), the member’s term of office ends on the later of the following—
- (a) the day the member receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.
- ‘(4) The council’s power to remove an appointed member from office under this section does not limit the Governor in Council’s powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).²

‘Division 3B Extending terms of office

‘26C Minister may extend terms of office

- ‘(1) The Minister may, by notice given to the council, extend the terms of office of elected, appointed and additional members for not more than 1 year if the Minister is satisfied the extension—
- (a) is in the best interests of the university; and
 - (b) is necessary for the council to perform its functions and exercise its powers appropriately, effectively and efficiently.
- ‘(2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all elected, appointed and additional members.
- ‘(3) The extension applies only to members holding office when the notice is given under subsection (1).
- ‘(4) This section—
- (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
 - (b) applies despite sections 18, 19(1) and (2) and 20.’.

² *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

17 Amendment of s 30 (Chancellor)

- (1) Section 30(4)—
renumber as section 30(5).
- (2) Section 30—
insert—
- ‘(4) The person elected must not be a student or a member of the university’s academic staff or general staff.’.

18 Amendment of s 31 (Deputy chancellor)

- Section 31(3), ‘3 years’—
omit, insert—
‘4 years’.

19 Omission of pt 4, div 1 (Convocation)

- Part 4, division 1—
omit.

20 Insertion of new s 40AA

- Part 4, division 4, after section 40—
insert—

‘40AA President of academic board

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

21 Amendment of s 40A (Excluded matters for Corporations legislation)

- (1) Section 40A(1)(a)—
omit.

- (2) Section 40A(1)(b) and (c)—
renumber as section 40A(1)(a) and (b).

22 Insertion of new pt 4A

Before part 5—

insert—

‘Part 4A Matters relating to offices of chancellor, deputy chancellor, vice-chancellor and president

‘40C Disqualification from office

- ‘(1) A person can not become, or continue as, the chancellor, vice-chancellor or president if—
- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (b) subject to subsections (2) to (4), the person has a conviction for an indictable offence other than an offence in relation to which the person is disqualified from office under paragraph (a).
- ‘(2) If the council considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in subsection (1)(b) of which the person has been convicted, the council may—
- (a) if the person was the chancellor, vice-chancellor or president when convicted—give notice to the person that the person—
 - (i) is restored as the chancellor, vice-chancellor or president; and
 - (ii) may be later re-elected or reappointed, despite the conviction; or
 - (b) otherwise—give written approval for the person to become the chancellor, vice-chancellor or president despite the conviction.

- ‘(3) On the day the person receives a notice under subsection (2)(a)—
- (a) the person is restored as the chancellor, vice-chancellor or president; and
 - (b) if another person has been elected or appointed to fill the vacancy—the other person’s term of office ends.
- ‘(4) If a person is restored as the chancellor, vice-chancellor or president under subsection (3), the person’s term of office as the chancellor, vice-chancellor or president ends when it would have ended if the person had not been convicted of the offence.

‘40D Council may remove chancellor, vice-chancellor or president from office

- ‘(1) The council may remove the chancellor, vice-chancellor or president from office if at least 10 members are satisfied the chancellor, vice-chancellor or president has not complied with—
- (a) section 26A(2);³ or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove the chancellor, vice-chancellor or president from office under subsection (1), the council must as soon as practicable give the chancellor, vice-chancellor or president notice of the decision and the reasons for it.
- ‘(3) The chancellor’s, vice-chancellor’s or president’s term of office ends on the later of the following—
- (a) the day he or she receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.

3 Section 26A (Member’s function, and obligations about function)

‘40E Particular matters about removal of vice-chancellor

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

‘40F Vacation of office

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

23 Amendment of s 57 (Making of university statutes)

- (1) Section 57(2)(e)—
omit.
- (2) Section 57(2)(f), after ‘members’—
insert—
‘, including the voting rights of part-time academic staff and part-time general staff’.

(3) Section 57(2)—

insert—

‘(fa) the process for removing a person from office under section 26B or 40D;⁴

(fb) the spending of funds under a delegation under section 11(3);’.

(4) Section 57(2)(f) to (j)—

renumber as section 57(2)(e) to (k).

24 Amendment of s 61 (Forming and taking part in corporations)

Section 61(1), ‘include’—

omit, insert—

‘include any of’.

25 Insertion of new ss 62A–62C

After section 62—

insert—

‘62A Protection from liability

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

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

‘62B Report about person’s criminal history

‘(1) To decide whether to recommend to the Governor in Council a person for appointment under section 14(2) as an appointed member, the Minister may ask the commissioner of the police service for—

⁴ Section 26B (Council may remove member from office) or 40D (Council may remove chancellor, vice-chancellor or president from office)

- (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- '(2) To decide whether a person is eligible to be the chancellor, vice-chancellor or president, or an elected or additional member, the council may ask the commissioner of the police service for—
- (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- '(3) The commissioner of the police service must comply with a request under subsection (1) or (2).
- '(4) However, the Minister or council may make a request about a person under subsection (1) or (2) only if the person has given the Minister or council written consent for the request.
- '(5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- '(6) The Minister or council must ensure that a report given to the Minister or council under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- '(7) In this section—
- criminal history*, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

'62C Delegation by Minister

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

26 Insertion of new pt 8, div 2

Part 8, after section 78—

insert—

**‘Division 2 Transitional provisions for the
University Legislation Amendment
Act 2005**

‘Subdivision 1 Preliminary

‘79 Definitions for div 2

‘In this division—

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

new additional members see section 85.

new appointed members see section 81(2).

pre-amended Act means this Act as in force before the commencement of the *University Legislation Amendment Act 2005*, part 2.

**‘Subdivision 2 Provisions about council
membership**

‘80 Continuation of official members

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

‘81 Appointment of new appointed members

‘(1) The Minister must, within 1 year after the commencement, recommend to the Governor in Council 5 persons for appointment, under section 14(2), as appointed members.

- ‘(2) The Governor in Council may appoint the persons as appointed members (the *new appointed members*).

‘82 Continuation, and term of office, of appointed members

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

‘83 Continuation of elected members

- ‘(1) This section applies to a person who was an elected member immediately before the commencement.
- ‘(2) Despite section 15(1) and (2), the person continues as an elected member until—
- (a) the person’s term of office ends under section 84; or
 - (b) the person’s office sooner becomes vacant.
- ‘(3) Despite section 19(1) and (2), the person’s term of office is 3 years.

‘84 Ballot, and term of office, for elected members

- ‘(1) At least 14 days before the new appointed members are appointed, a ballot under section 15(3) of the post-amended Act must be conducted for elected members.
- ‘(2) Subsection (3) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(a) of the pre-amended Act.
- ‘(3) The person’s term of office ends when the elected member mentioned in section 15(2)(a) of the post-amended Act is elected under the ballot.

-
- ‘(4) Subsection (5) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(b) of the pre-amended Act.
- ‘(5) The person’s term of office ends when the elected member mentioned in section 15(2)(b) of the post-amended Act is elected under the ballot.
- ‘(6) Subsection (7) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(c) of the pre-amended Act.
- ‘(7) The person’s term of office ends when the elected member mentioned in section 15(2)(c) of the post-amended Act is elected under the ballot.
- ‘(8) Subsection (9) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(d) of the pre-amended Act.
- ‘(9) The person’s term of office ends when the new additional members’ terms of office start.
- ‘(10) A person is taken to be elected under the ballot when the new appointed members’ terms of office start.
- ‘(11) Despite section 19(3), the term of office of a person elected under the ballot starts when the new appointed members’ terms of office start.
- ‘(12) Subsections (3), (5), (7) and (9) apply despite section 83(3).
- ‘(13) In this section—
- post-amended Act* means this Act as in force after the commencement of the *University Legislation Amendment Act 2005*, part 2.

‘85 Appointment of new additional members

‘The council must, within 1 year after the commencement, appoint 4 persons as additional members (the *new additional members*) under section 16.

‘86 Continuation, and term of office, of additional members

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

‘87 Council need not include additional members

‘Despite section 12, the council need not include additional members before the new additional members’ terms of office start.

‘88 Dealing with casual vacancy in office of elected member

- ‘(1) This section applies if a casual vacancy arises in the office of an elected member after the commencement and before the ballot mentioned in section 84(1) is conducted.
- ‘(2) For appointing or electing a person to the office, the pre-amended Act continues to apply as if the *University Legislation Amendment Act 2005*, part 2, had not commenced.

‘Subdivision 3 Constitution of council**‘89 Constitution of council**

- ‘(1) This section applies until the new appointed members’ terms of office start.
- ‘(2) Despite section 17, the council is taken to be properly constituted when it has 12 or more members, whether they be additional, appointed, elected or official members.’.

27 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *indictable offence*—

omit.

- (2) Schedule 2—

insert—

‘commencement, for part 8, division 2, see section 79.

commencing day, for part 8, division 1, see section 66.

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

- (a) is stated in the university’s approved code of conduct under the *Public Sector Ethics Act 1994*; and

- (b) must be complied with by the member.

continuing corporation, for part 8, division 1, see section 66.

conviction means a conviction other than a spent conviction.

former corporation, for part 8, division 1, see section 66.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,⁵ applies to the indictable offence.

new additional members, for part 8, division 2, see section 79.

new appointed members, for part 8, division 2, see section 79.

notice means written notice.

pre-amended Act, for part 8, division 2, see section 79.

president means the president of the academic board.

previous council, for part 8, division 1, see section 66.

repealed Act, for part 8, division 1, see section 66.

spent conviction means a conviction—

⁵ Criminal Code, section 659 (Effect of summary conviction for indictable offences)

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11⁶ of that Act.

union, for part 8, division 1, see section 66.’.

- (3) Schedule 2, definition *elected member*, ‘or appointed’—
omit.

Part 3 Amendment of Griffith University Act 1998

28 Act amended in pt 3

This part amends the *Griffith University Act 1998*.

29 Replacement of ss 12 and 13

Sections 12 and 13—
omit, insert—

‘12 Membership of council

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

‘13 Official members

- ‘(1) There are 2 official members.
- ‘(2) The official members are—
 - (a) the chancellor; and
 - (b) the vice-chancellor.’.

⁶ *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

30 Amendment of s 14 (Appointed members)

Section 14(1), '8'—

omit, insert—

'7'.

31 Amendment of s 15 (Elected members)

(1) Section 15(1), '12'—

omit, insert—

'5'.

(2) Section 15(2)(a), '4'—

omit, insert—

'2'.

(3) Section 15(2)(b), '2 members'—

omit, insert—

'1 member'.

(4) Section 15(2)(c) and (d)—

omit, insert—

'(c) 1 undergraduate student, other than a person eligible for membership under paragraph (a) or (b); and

(d) 1 postgraduate student, other than a person eligible for membership under paragraph (a) or (b).'

(5) Section 15(3), 'mentioned in subsection (2)(a) to (d)'—

omit.

(6) Section 15(3)(c), before 'students'—

insert—

'undergraduate'.

(7) Section 15(3)(d), 'members of the convocation'—

omit, insert—

'postgraduate students'.

32 Replacement of s 16 (Additional members)

Section 16—

omit, insert—

‘16 Additional members

- ‘(1) There are 4 additional members.
- ‘(2) The council must appoint the additional members.
- ‘(3) The council must appoint at least 2 graduates of the university as additional members.
- ‘(4) An additional member must not be a student or a member of the university’s academic staff or general staff.’.

33 Amendment of s 17 (When council is taken to be properly constituted)

Section 17, ‘15’—

omit, insert—

‘11’.

34 Amendment of s 18 (Appointed member’s term of office)

Section 18, ‘3 years’—

omit, insert—

‘4 years’.

35 Amendment of s 19 (Elected member’s term of office)

Section 19(1) and (2)—

omit, insert—

- ‘(1) An elected member mentioned in section 15(2)(a) or (b) holds office for 4 years.
- ‘(2) An elected member mentioned in section 15(2)(c) or (d) holds office for 2 years.’.

36 Replacement of s 20 (Additional member's term of office)

Section 20—

omit, insert—

'20 Additional member's term of office

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

37 Replacement of s 23 (Ineligibility for membership of council)

Section 23—

omit, insert—

'23 Ineligibility for membership of council

'(1) A person is not eligible to become an elected, appointed or additional member if—

(a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6;⁷ or

(b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).

'(2) Also, a person is not eligible to be elected or appointed as an elected, appointed or additional member if the person's election or appointment as the member would result in the person being a member for 12 years or more, whether continuously or not.

'(3) Subsection (2) does not apply to a person if a majority of members agree the person may be elected or appointed as an elected, appointed or additional member.

'(4) Subsection (1)(b) is subject to sections 25 and 26.'

38 Amendment of s 24 (Vacation of office)

(1) Section 24(1)(f) and (g)—

omit, insert—

⁷ Corporations Act, part 2D.6 (Disqualification from managing corporations)

- ‘(f) the member is removed from office under section 26B; or
 - (g) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (h) the member is convicted of an indictable offence, other than an offence in relation to which the member’s office becomes vacant under paragraph (g).’.
- (2) Section 24(2)—
omit, insert—
- ‘(2) Subsection (1)(h) is subject to sections 25 and 26.’.

39 Insertion of new pt 2, divs 3A and 3B

After section 26—

insert—

‘Division 3A Members’ function, and removing elected, appointed and additional members from office

‘26A Member’s function, and obligations about function

- ‘(1) A member has the function of ensuring the council performs its functions and exercises its powers appropriately, effectively and efficiently.
- ‘(2) In performing the function, a member—
 - (a) must act honestly and in the best interests of the university; and
 - (b) must exercise reasonable skill, care and diligence; and
 - (c) must disclose to the council any conflict that may arise between the member’s personal interests and the interests of the university; and
 - (d) must not make improper use of his or her position as a member, or of information acquired because of his or her position as a member, to gain, directly or indirectly, an advantage for the member or another person.

‘26B Council may remove member from office

- ‘(1) The council may remove an elected, appointed or additional member from office if at least 12 members are satisfied the member has not complied with—
- (a) section 26A(2); or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove a member from office under subsection (1), the council must as soon as practicable—
- (a) give the member notice of the decision and the reasons for it; and
 - (b) if the member is an appointed member—give the Minister a copy of the notice.
- ‘(3) If the council gives a member a notice under subsection (2)(a), the member’s term of office ends on the later of the following—
- (a) the day the member receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.
- ‘(4) The council’s power to remove an appointed member from office under this section does not limit the Governor in Council’s powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).⁸

‘Division 3B Extending terms of office**‘26C Minister may extend terms of office**

- ‘(1) The Minister may, by notice given to the council, extend the terms of office of elected, appointed and additional members for not more than 1 year if the Minister is satisfied the extension—
- (a) is in the best interests of the university; and

⁸ *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

- (b) is necessary for the council to perform its functions and exercise its powers appropriately, effectively and efficiently.
- ‘(2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all elected, appointed and additional members.
- ‘(3) The extension applies only to members holding office when the notice is given under subsection (1).
- ‘(4) This section—
- (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
- (b) applies despite sections 18, 19(1) and (2) and 20.’.

40 Amendment of s 30 (Chancellor)

- (1) Section 30(4)—
renumber as section 30(5).
- (2) Section 30—
insert—
- ‘(4) The person elected must not be a student or a member of the university’s academic staff or general staff.’.

41 Amendment of s 31 (Deputy chancellor)

Section 31(3), ‘3 years’—
omit, insert—
‘4 years’.

42 Insertion of new pt 3, div 2

Part 3, after section 32—
insert—

‘Division 2 Matters about disqualification or removal from office

‘32A Disqualification from office

- ‘(1) A person can not become, or continue as, the chancellor or vice-chancellor if—
- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (b) subject to subsections (2) to (4), the person has a conviction for an indictable offence other than an offence in relation to which the person is disqualified from office under paragraph (a).
- ‘(2) If the council considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in subsection (1)(b) of which the person has been convicted, the council may—
- (a) if the person was the chancellor or vice-chancellor when convicted—give notice to the person that the person—
 - (i) is restored as the chancellor or vice-chancellor; and
 - (ii) may be later re-elected or reappointed, despite the conviction; or
 - (b) otherwise—give written approval for the person to become the chancellor or vice-chancellor despite the conviction.
- ‘(3) On the day the person receives a notice under subsection (2)(a)—
- (a) the person is restored as the chancellor or vice-chancellor; and
 - (b) if another person has been elected or appointed to fill the vacancy—the other person’s term of office ends.
- ‘(4) If a person is restored as the chancellor or vice-chancellor under subsection (3), the person’s term of office as the chancellor or vice-chancellor ends when it would have ended if the person had not been convicted of the offence.

‘32B Council may remove chancellor or vice-chancellor from office

- ‘(1) The council may remove the chancellor or vice-chancellor from office if at least 12 members are satisfied the chancellor or vice-chancellor has not complied with—
- (a) section 26A(2);⁹ or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove the chancellor or vice-chancellor from office under subsection (1), the council must as soon as practicable give the chancellor or vice-chancellor notice of the decision and the reasons for it.
- ‘(3) The chancellor’s or vice-chancellor’s term of office ends on the later of the following—
- (a) the day he or she receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.

‘32C Particular matters about removal of vice-chancellor

- ‘(1) The council may remove the vice-chancellor from office under section 32B despite the vice-chancellor’s terms of appointment.
- ‘(2) If the council removes the vice-chancellor from office under section 32B—
- (a) the removal does not affect the vice-chancellor’s right to claim compensation or other entitlements under his or her terms of appointment applying when the appointment ends; and
 - (b) the vice-chancellor may only claim compensation and other entitlements under his or her terms of appointment as if—
 - (i) the appointment had been ended as permitted under the terms of appointment; or
 - (ii) his or her term of office had ended.

9 Section 26A (Member’s function, and obligations about function)

‘32D Vacation of office

- ‘(1) The office of the chancellor or vice-chancellor becomes vacant if he or she—
- (a) can not continue as the chancellor or vice-chancellor under section 32A; or
 - (b) is removed from office under section 32B.
- ‘(2) The office of the deputy chancellor becomes vacant if his or her office as a member becomes vacant under section 24 or he or she otherwise stops being a member.’.

43 Amendment of s 61 (Making of university statutes)

- (1) Section 61(2)(g) to (i)—
renumber as section 61(2)(h) to (j).
- (2) Section 61(2)—
insert—
- ‘(g) the process for removing a person from office under section 26B or 32B;¹⁰’.

44 Amendment of s 65 (Forming and taking part in corporations)

Section 65(1), ‘include’—
omit, insert—
‘include any of’.

45 Insertion of new ss 66A–66C

After section 66—
insert—

¹⁰ Section 26B (Council may remove member from office) or 32B (Council may remove chancellor or vice-chancellor from office)

‘66A Protection from liability

- ‘(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- ‘(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the university.

‘66B Report about person’s criminal history

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

‘(7) In this section—

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

‘66C Delegation by Minister

‘The Minister may delegate the Minister’s power under section 66B(1) to an appropriately qualified officer of the department.’.

46 Amendment of pt 8 (Transitional provisions for Education (Miscellaneous Amendments) Act 2002)

(1) Part 8, heading—

omit, insert—

‘Part 8 Transitional provisions’.

(2) Part 8, division 1, heading—

omit, insert—

‘Division 1 Transitional provisions for the Education (Miscellaneous Amendments) Act 2002

‘Subdivision 1 Preliminary’.

(3) Part 8, division 2, heading—

omit, insert—

‘Subdivision 2 Provisions about the council’.

(4) Part 8, division 3, heading—

omit, insert—

‘Subdivision 3 Provisions about Gold Coast student body’.

(5) Part 8, division 4, heading—

omit, insert—

‘Subdivision 4 Provision about colleges’.

47 Insertion of new pt 8, div 2

Part 8, after section 80—

insert—

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

‘Subdivision 1 Preliminary

‘81 Definitions for div 2

‘In this division—

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

new additional members see section 87.

new appointed members see section 83(2).

pre-amended Act means this Act as in force before the commencement of the *University Legislation Amendment Act 2005*, part 3.

‘Subdivision 2 Provisions about council membership

‘82 Continuation of official member

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

‘83 Appointment of new appointed members

- ‘(1) The Minister must, within 1 year after the commencement, recommend to the Governor in Council 7 persons for appointment, under section 14(2), as appointed members.
- ‘(2) The Governor in Council may appoint the persons as appointed members (the *new appointed members*).

‘84 Continuation, and term of office, of appointed members

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

‘85 Continuation of elected members

- ‘(1) This section applies to a person who was an elected member immediately before the commencement.
- ‘(2) Despite section 15(1) and (2), the person continues as an elected member until—
 - (a) the person’s term of office ends under section 86; or
 - (b) the person’s office sooner becomes vacant.
- ‘(3) Despite section 19(1) and (2), the person’s term of office is 3 years.

‘86 Ballot, and term of office, for elected members

- ‘(1) At least 14 days before the new appointed members are appointed, a ballot under section 15(3) of the post-amended Act must be conducted for elected members.

- ‘(2) Subsection (3) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(a) of the pre-amended Act.
- ‘(3) The person’s term of office ends when the elected members mentioned in section 15(2)(a) of the post-amended Act are elected under the ballot.
- ‘(4) Subsection (5) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(b) of the pre-amended Act.
- ‘(5) The person’s term of office ends when the elected member mentioned in section 15(2)(b) of the post-amended Act is elected under the ballot.
- ‘(6) Subsection (7) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(c) of the pre-amended Act.
- ‘(7) The person’s term of office ends when the elected member mentioned in section 15(2)(c) of the post-amended Act is elected under the ballot.
- ‘(8) Subsection (9) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(d) of the pre-amended Act.
- ‘(9) The person’s term of office ends when the new additional members’ terms of office start.
- ‘(10) A person is taken to be elected under the ballot when the new appointed members’ terms of office start.
- ‘(11) Despite section 19(3), the term of office of a person elected under the ballot starts when the new appointed members’ terms of office start.
- ‘(12) Subsections (3), (5), (7) and (9) apply despite section 85(3).
- ‘(13) In this section—

post-amended Act means this Act as in force after the commencement of the *University Legislation Amendment Act 2005*, part 3.

‘87 Appointment of new additional members

‘The council must, within 1 year after the commencement, appoint 4 persons as additional members (the *new additional members*) under section 16.

‘88 Continuation, and term of office, of additional members

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

‘89 Council need not include additional members

‘Despite section 12, the council need not include additional members before the new additional members’ terms of office start.

‘90 Dealing with casual vacancy in office of elected member

- ‘(1) This section applies if a casual vacancy arises in the office of an elected member after the commencement and before the ballot mentioned in section 86(1) is conducted.
- ‘(2) For appointing or electing a person to the office, the pre-amended Act continues to apply as if the *University Legislation Amendment Act 2005*, part 3, had not commenced.

‘Subdivision 3 Constitution of council**‘91 Constitution of council**

- ‘(1) This section applies until the new appointed members’ terms of office start.

- ‘(2) Despite section 17, the council is taken to be properly constituted when it has 15 or more members, whether they be additional, appointed, elected or official members.’.

48 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *indictable offence*—

omit.

- (2) Schedule 2—

insert—

‘*college*, for part 8, division 1, see section 70.

commencement—

(a) for part 8, division 1, see section 70; and

(b) for part 8, division 2, see section 81.

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

(a) is stated in the university’s approved code of conduct under the *Public Sector Ethics Act 1994*; and

(b) must be complied with by the member.

conviction means a conviction other than a spent conviction.

Gold Coast college, for part 8, division 1, see section 70.

Gold Coast student body, for part 8, division 1, see section 70.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,¹¹ applies to the indictable offence.

new additional members, for part 8, division 2, see section 81.

new appointed members, for part 8, division 2, see section 81.

notice means written notice.

pre-amended Act—

(a) for part 8, division 1, see section 70; and

¹¹ Criminal Code, section 659 (Effect of summary conviction for indictable offence)

- (b) for part 8, division 2, see section 81.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11¹² of that Act.’.

Part 4 **Amendment of James Cook University Act 1997**

49 **Act amended in pt 4**

This part amends the *James Cook University Act 1997*.

50 **Amendment of s 11 (Delegation)**

Section 11—

insert—

- ‘(3) Despite subsection (2)(c), the council may delegate its power to approve spending of funds available to the university by way of bequest, donation or special grant if—
- (a) the expenditure is for a matter funded by bequest, donation or special grant; and
- (b) the amount of expenditure for the matter is not more than \$100 000.’.

51 **Replacement of ss 12 and 13**

Sections 12 and 13—

omit, insert—

¹² *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

‘12 Membership of council

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

‘13 Official members

- ‘(1) There are 3 official members.
- ‘(2) The official members are—
- (a) the chancellor; and
 - (b) the vice-chancellor; and
 - (c) the chairperson of the academic board.’.

52 Amendment of s 14 (Appointed members)

Section 14(1), ‘9’—

omit, insert—

‘8’.

53 Amendment of s 15 (Elected members)

- (1) Section 15(2)(b) and (3)(b), ‘full-time’—
omit.
- (2) Section 15(2)(c) and (d)—
omit, insert—
- ‘(c) 1 undergraduate student; and
 - (d) 1 postgraduate student; and
 - (e) 1 undergraduate or postgraduate student; and
 - (f) 2 members of the convocation, other than persons eligible for membership under paragraph (a), (b), (c), (d) or (e).’.
- (3) Section 15(3)(c) and (d)—
omit, insert—
- ‘(c) for an elected member mentioned in subsection (2)(c), (d) or (e)—all the students may vote; or

(d) for an elected member mentioned in subsection (2)(f)—all the members of the convocation may vote.’.

(4) Section 15(4)—
omit.

54 Replacement of s 16 (Additional members)

Section 16—
omit, insert—

‘16 Additional member

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

55 Amendment of s 17 (When council is taken to be properly constituted)

Section 17, ‘15’—
omit, insert—
‘12’.

56 Amendment of s 18 (Appointed member’s term of office)

Section 18, ‘3 years’—
omit, insert—
‘4 years’.

57 Amendment of s 19 (Elected member’s term of office)

- (1) Section 19(1)—
omit, insert—
‘(1) An elected member mentioned in section 15(2)(a), (b) or (f) holds office for 4 years.

‘(1A) An elected member mentioned in section 15(2)(c), (d) or (e) holds office for 2 years.’.

(2) Section 19(2)(a), ‘or reappointed’—
omit.

(3) Section 19(1A) and (2)—
renumber as section 19(2) and (3).

58 Replacement of s 20 (Additional member’s term of office)

Section 20—

omit, insert—

‘20 Additional member’s term of office

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

59 Amendment of s 20A (Dealing with casual vacancy in office of an elected member)

(1) Section 20A(5)—
omit, insert—

‘(5) Despite subsection (4)—

(a) if the elected member was a student—the council may appoint a student to the office; and

(b) if the elected member was a member of the convocation—the council may appoint a member of the convocation to the office.’.

(2) Section 20A(7), definition *member of the convocation*, ‘(b) or (c)’—

omit, insert—

‘(b), (c), (d) or (e)’.

59A Replacement of s 21 (Failure to elect or appoint elected members)

Section 21—

*omit, insert—***‘21 Failure to elect elected members**

- ‘(1) If an entity permitted to elect elected members does not elect any or enough persons as elected members by a day fixed by the council by notice given to the entity, the Minister may appoint to the council as many members of the entity as necessary to comply with section 15.
- ‘(2) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).
- ‘(3) A person appointed under subsection (1) is taken to have been elected by the entity under section 15.
- ‘(4) This section applies to the periodic election of members and an election required because of a casual vacancy.’

60 Replacement of s 23 (Ineligibility for membership of council)

Section 23—

*omit, insert—***‘23 Ineligibility for membership of council**

- ‘(1) A person is not eligible to become an elected, appointed or additional member if—
- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6;¹³ or
 - (b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).
- ‘(2) Also, a person is not eligible to be elected or appointed as an elected, appointed or additional member if the person’s election or appointment as the member would result in the

13 Corporations Act, part 2D.6 (Disqualification from managing corporations)

person being a member for 12 years or more, whether continuously or not.

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

61 Amendment of s 24 (Vacation of office)

- (1) Section 24(1)(f) and (g)—

omit, insert—

‘(f) the member is removed from office under section 26B;
or

(g) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or

(h) the member is convicted of an indictable offence, other than an offence in relation to which the member’s office becomes vacant under paragraph (g).’.

- (2) Section 24(2)—

omit, insert—

- ‘(2) Subsection (1)(h) is subject to sections 25 and 26.’.

62 Insertion of new pt 2, divs 3A and 3B

After section 26—

insert—

‘Division 3A Members’ function, and removing elected, appointed and additional members from office

‘26A Member’s function, and obligations about function

- ‘(1) A member has the function of ensuring the council performs its functions and exercises its powers appropriately, effectively and efficiently.
- ‘(2) In performing the function, a member—

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

'26B Council may remove member from office

- '(1) The council may remove an elected, appointed or additional member from office if at least 15 members are satisfied the member has not complied with—
 - (a) section 26A(2); or
 - (b) a conduct obligation.
- '(2) If the council decides to remove a member from office under subsection (1), the council must as soon as practicable—
 - (a) give the member notice of the decision and the reasons for it; and
 - (b) if the member is an appointed member—give the Minister a copy of the notice.
- '(3) If the council gives a member a notice under subsection (2)(a), the member's term of office ends on the later of the following—
 - (a) the day the member receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.
- '(4) The council's power to remove an appointed member from office under this section does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).¹⁴

14 *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

‘Division 3B Extending terms of office**‘26C Minister may extend terms of office**

- ‘(1) The Minister may, by notice given to the council, extend the terms of office of the elected, appointed and additional members for not more than 1 year if the Minister is satisfied the extension—
- (a) is in the best interests of the university; and
 - (b) is necessary for the council to perform its functions and exercise its powers appropriately, effectively and efficiently.
- ‘(2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all elected, appointed and additional members.
- ‘(3) The extension applies only to members holding office when the notice is given under subsection (1).
- ‘(4) This section—
- (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
 - (b) applies despite sections 18, 19(1) and (2) and 20.’.

63 Amendment of s 30 (Chancellor)

- (1) Section 30(4)—
renumber as section 30(5).
- (2) Section 30—
insert—
- ‘(4) The person elected must not be a student or a member of the university’s academic staff or general staff.’.

64 Amendment of s 31 (Deputy chancellor)

Section 31(3), ‘3 years’—

omit, insert—

‘4 years’.

65 Insertion of new s 40AA

Part 4, division 4, after section 40—

insert—

‘40AA Chairperson of academic board

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

66 Insertion of new pt 4A

Before part 5—

insert—

**‘Part 4A Matters relating to offices of
chancellor, deputy chancellor,
vice-chancellor and
chairperson****‘40C Disqualification from office**

- ‘(1) A person can not become, or continue as, the chancellor, vice-chancellor or chairperson if—
 - (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (b) subject to subsections (2) to (4), the person has a conviction for an indictable offence other than an offence in relation to which the person is disqualified from office under paragraph (a).

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

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

- ‘(1) The council may remove the chancellor, vice-chancellor or chairperson from office if at least 15 members are satisfied the chancellor, vice-chancellor or chairperson has not complied with—
- (a) section 26A(2);¹⁵ or
 - (b) a conduct obligation.

15 Section 26A (Member’s function, and obligations about function)

- ‘(2) If the council decides to remove the chancellor, vice-chancellor or chairperson from office under subsection (1), the council must as soon as practicable give the chancellor, vice-chancellor or chairperson notice of the decision and the reasons for it.
- ‘(3) The chancellor’s, vice-chancellor’s or chairperson’s term of office ends on the later of the following—
 - (a) the day he or she receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.

‘40E Particular matters about removal of vice-chancellor

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

‘40F Vacation of office

- ‘(1) The office of the chancellor, vice-chancellor or chairperson becomes vacant if he or she—
 - (a) can not continue as the chancellor, vice-chancellor or chairperson under section 40C; or
 - (b) is removed from office under section 40D.

- ‘(2) The office of the deputy chancellor becomes vacant if his or her office as a member becomes vacant under section 24 or he or she otherwise stops being a member.’.

67 Amendment of s 57 (Making of university statutes)

- (1) Section 57(2)—

insert—

‘(ea) the process for removing a person from office under section 26B or 40D;¹⁶

(eb) the spending of funds under a delegation under section 11(3);’.

- (2) Section 57(2)(aa) to (i)—

renumber as section 57(2)(b) to (l).

- (3) Section 57(3), ‘(2)(b)’—

omit, insert—

‘(2)(c)’.

68 Amendment of s 61 (Forming and taking part in corporations)

Section 61(1), ‘include’—

omit, insert—

‘include any of’.

69 Insertion of new ss 62A–62C

After section 62—

insert—

‘62A Protection from liability

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

¹⁶ Section 26B (Council may remove member from office) or 40D (Council may remove chancellor, vice-chancellor or chairperson from office)

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

‘62B Report about person’s criminal history

- ‘(1) To decide whether to recommend to the Governor in Council a person for appointment under section 14(2) as an appointed member, the Minister may ask the commissioner of the police service for—
- (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(2) To decide whether a person is eligible to be the chancellor, vice-chancellor or chairperson, or an elected or additional member, the council may ask the commissioner of the police service for—
- (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(3) The commissioner of the police service must comply with a request under subsection (1) or (2).
- ‘(4) However, the Minister or council may make a request about a person under subsection (1) or (2) only if the person has given the Minister or council written consent for the request.
- ‘(5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.
- ‘(6) The Minister or council must ensure that a report given to the Minister or council under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- ‘(7) In this section—
- criminal history***, of a person, means the person’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

‘62C Delegation by Minister

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

70 Insertion of new pt 8, div 2

Part 8, after section 67—

insert—

‘Division 2 Transitional provisions for the University Legislation Amendment Act 2005**‘Subdivision 1 Preliminary****‘68 Definitions for div 2**

‘In this division—

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

new additional member see section 74.

new appointed members see section 70(2).

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

‘Subdivision 2 Provisions about council membership**‘69 Continuation of official members**

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

‘70 Appointment of new appointed members

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

‘71 Continuation, and term of office, of appointed members

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

‘72 Continuation of elected members

- ‘(1) This section applies to a person who was an elected member immediately before the commencement.
- ‘(2) Despite section 15(1) and (2), the person continues as an elected member until—
 - (a) the person’s term of office ends under section 73; or
 - (b) the person’s office sooner becomes vacant.
- ‘(3) Despite section 19(1) and (2), the person’s term of office is 3 years.

‘73 Ballot, and term of office, for elected members

- ‘(1) At least 14 days before the new appointed members are appointed, a ballot under section 15(3) of the post-amended Act must be conducted for elected members.

- ‘(2) Subsection (3) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(a) of the pre-amended Act.
- ‘(3) The person’s term of office ends when the person who is the member’s successor is elected under the ballot.
- ‘(4) Subsection (5) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(b) of the pre-amended Act.
- ‘(5) The person’s term of office ends when the elected members mentioned in section 15(2)(b) of the post-amended Act are elected under the ballot.
- ‘(6) Subsection (7) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(c) of the pre-amended Act.
- ‘(7) The person’s term of office ends when the elected member mentioned in section 15(2)(c) of the post-amended Act is elected under the ballot.
- ‘(8) Subsection (9) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(d) of the pre-amended Act.
- ‘(9) The person’s term of office ends when the elected members mentioned in section 15(2)(f) of the post-amended Act are elected under the ballot.
- ‘(10) A person is taken to be elected under the ballot when the new appointed members’ terms of office start.
- ‘(11) Despite section 19(3), the term of office of a person elected under the ballot starts when the new appointed members’ terms of office start.
- ‘(12) Subsections (3), (5), (7) and (9) apply despite section 72(3).
- ‘(13) In this section—

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

‘74 Appointment of new additional member

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

‘75 Continuation, and term of office, of additional members

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

‘76 Council need not include additional members

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

‘77 Dealing with casual vacancy in office of elected member

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

‘Subdivision 3 Constitution of council**‘78 Constitution of council**

- ‘(1) This section applies until the new appointed members’ terms of office start.

- ‘(2) Despite section 17, the council is taken to be properly constituted when it has 15 or more members, whether they be additional, appointed, elected or official members.’.

71 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *indictable offence*—
omit.

- (2) Schedule 2—
insert—

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

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

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

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

conviction means a conviction other than a spent conviction.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,¹⁷ applies to the indictable offence.

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

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

notice means written notice.

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

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

¹⁷ Criminal Code, section 659 (Effect of summary conviction for indictable offence)

- (b) that is not revived as prescribed by section 11¹⁸ of that Act.’.
- (3) Schedule 2, definition *elected member*, ‘or appointed’—
omit.

Part 5 Amendment of Queensland University of Technology Act 1998

72 Act amended in pt 5

This part amends the *Queensland University of Technology Act 1998*.

73 Amendment of s 11 (Delegation)

Section 11—

insert—

- ‘(3) Despite subsection (2)(c), the council may delegate its power to approve spending of funds mentioned in that paragraph if the expenditure is for a scholarship or a prize funded by bequest, donation or special grant.’.

74 Replacement of s 12 (Membership of council)

Section 12—

omit, insert—

‘12 Membership of council

‘The council consists of official members, appointed members, elected members and additional members.’.

18 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

75 Replacement of s 13 (Official members)

Section 13—

omit, insert—

‘13 Official members

‘The official members are—

- (a) the chancellor; and
- (b) the vice-chancellor; and
- (c) if the chairperson of the academic committee is not the chancellor or vice-chancellor, or an elected, appointed or additional member—the chairperson.’.

76 Amendment of s 15 (Elected members)

- (1) Section 15(2)(b), ‘general’—

omit, insert—

‘professional’.

- (2) Section 15(3)(b), ‘general’—

omit, insert—

‘professional’.

- (3) Section 15(4)—

omit.

77 Replacement of s 16 (Additional members)

Section 16—

omit, insert—

‘16 Additional members

- ‘(1) There are 2 additional members.
- ‘(2) The council must appoint the additional members.
- ‘(3) An additional member must not be a student or a member of the university’s academic staff or professional staff.’.

78 Amendment of s 18 (Appointed member's term of office)

Section 18, '3 years'—

omit, insert—

'4 years'.

79 Amendment of s 19 (Elected member's term of office)

(1) Section 19(1)—

omit, insert—

'(1) An elected member mentioned in section 15(2)(a), (b) or (d) holds office for 4 years.

'(1A) An elected member mentioned in section 15(2)(c) holds office for 2 years.'

(2) Section 19(2)(a), 'or reappointed'—

omit.

(3) Section 19(1A) and (2)—

renumber as section 19(2) and (3).

80 Replacement of s 20 (Additional member's term of office)

Section 20—

omit, insert—

'20 Additional member's term of office

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

80A Amendment of s 20A (Dealing with casual vacancy in office of an elected member)

Section 20A(5)—

omit, insert—

'(5) Despite subsection (4)—

(a) if the elected member was a student—the council may appoint a student to the office; and

- (b) if the elected member was a member of QUT Alumni (the *alumni*)—the council may appoint a member of the alumni to the office.’.

80B Replacement of s 21 (Failure to elect or appoint elected members)

Section 21—

omit, insert—

‘21 Failure to elect elected members

- ‘(1) If an entity permitted to elect elected members does not elect any or enough persons as elected members by a day fixed by the council by notice given to the entity, the Minister may appoint to the council as many members of the entity as necessary to comply with section 15.
- ‘(2) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).
- ‘(3) A person appointed under subsection (1) is taken to have been elected by the entity under section 15.
- ‘(4) This section applies to the periodic election of members and an election required because of a casual vacancy.’.

81 Replacement of s 23 (Ineligibility for membership of council)

Section 23—

omit, insert—

‘23 Ineligibility for membership of council

- ‘(1) A person is not eligible to become an elected, appointed or additional member if—
- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6;¹⁹ or
- (b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).

¹⁹ Corporations Act, part 2D.6 (Disqualification from managing corporations)

- ‘(2) Also, a person is not eligible to be elected or appointed as an elected, appointed or additional member if the person’s election or appointment as the member would result in the person being a member for 12 years or more, whether continuously or not.
- ‘(3) Subsection (2) does not apply to a person if a majority of members agree the person may be elected or appointed as an elected, appointed or additional member.
- ‘(4) Subsection (1)(b) is subject to sections 25 and 26.’.

82 Amendment of s 24 (Vacation of office)

- (1) Section 24(1)(f) and (g)—

omit, insert—

- ‘(f) the member is removed from office under section 26B;
or
- (g) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (h) the member is convicted of an indictable offence, other than an offence in relation to which the member’s office becomes vacant under paragraph (g).’.

- (2) Section 24(2)—

omit, insert—

- ‘(2) Subsection (1)(h) is subject to sections 25 and 26.’.

83 Insertion of new pt 2, divs 3A and 3B

After section 26—

insert—

**‘Division 3A Members’ function, and removing
elected, appointed and additional
members from office**

‘26A Member’s function, and obligations about function

- ‘(1) A member has the function of ensuring the council performs its functions and exercises its powers appropriately, effectively and efficiently.
- ‘(2) In performing the function, a member—
- (a) must act honestly and in the best interests of the university; and
 - (b) must exercise reasonable skill, care and diligence; and
 - (c) must disclose to the council any conflict that may arise between the member’s personal interests and the interests of the university; and
 - (d) must not make improper use of his or her position as a member, or of information acquired because of his or her position as a member, to gain, directly or indirectly, an advantage for the member or another person.

‘26B Council may remove member from office

- ‘(1) The council may remove an elected, appointed or additional member from office if at least 15 members are satisfied the member has not complied with—
- (a) section 26A(2); or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove a member from office under subsection (1), the council must as soon as practicable—
- (a) give the member notice of the decision and the reasons for it; and
 - (b) if the member is an appointed member—give the Minister a copy of the notice.

- ‘(3) If the council gives a member a notice under subsection (2)(a), the member’s term of office ends on the later of the following—
- (a) the day the member receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.
- ‘(4) The council’s power to remove an appointed member from office under this section does not limit the Governor in Council’s powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).²⁰

‘Division 3B Extending terms of office

‘26C Minister may extend terms of office

- ‘(1) The Minister may, by notice given to the council, extend the terms of office of the elected, appointed and additional members for not more than 1 year if the Minister is satisfied the extension—
- (a) is in the best interests of the university; and
 - (b) is necessary for the council to perform its functions and exercise its powers appropriately, effectively and efficiently.
- ‘(2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all elected, appointed and additional members.
- ‘(3) The extension applies only to members holding office when the notice is given under subsection (1).
- ‘(4) This section—
- (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
 - (b) applies despite sections 18, 19(1) and (2) and 20.’.

²⁰ *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

84 Amendment of s 30 (Chancellor)

- (1) Section 30(4)—
renumber as section 30(5).
- (2) Section 30—
insert—
- ‘(4) The person elected must not be a student or a member of the university’s academic staff or professional staff.’.

85 Amendment of s 31 (Deputy chancellor)

- Section 31(3), ‘1 year’—
omit, insert—
‘2 years’.

86 Insertion of new pt 4A

- Before part 5—
insert—

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

‘39B Disqualification from office

- ‘(1) A person can not become, or continue as, the chancellor, vice-chancellor or chairperson if—
- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (b) subject to subsections (2) to (4), the person has a conviction for an indictable offence other than an offence in relation to which the person is disqualified from office under paragraph (a).
- ‘(2) If the council considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in

subsection (1)(b) of which the person has been convicted, the council may—

- (a) if the person was the chancellor, vice-chancellor or chairperson when convicted—give notice to the person that the person—
 - (i) is restored as the chancellor, vice-chancellor or chairperson; and
 - (ii) may be later re-elected or reappointed, despite the conviction; or
- (b) otherwise—give written approval for the person to become the chancellor, vice-chancellor or chairperson despite the conviction.

‘(3) On the day the person receives a notice under subsection (2)(a)—

- (a) the person is restored as the chancellor, vice-chancellor or chairperson; and
- (b) if another person has been elected or appointed to fill the vacancy—the other person’s term of office ends.

‘(4) If a person is restored as the chancellor, vice-chancellor or chairperson under subsection (3), the person’s term of office as the chancellor, vice-chancellor or chairperson ends when it would have ended if the person had not been convicted of the offence.

‘39C Council may remove chancellor, vice-chancellor or chairperson from office

- ‘(1) The council may remove the chancellor, vice-chancellor or chairperson from office if at least 15 members are satisfied the chancellor, vice-chancellor or chairperson has not complied with—
- (a) section 26A(2);²¹ or
 - (b) a conduct obligation.

21 Section 26A (Member’s function, and obligations about function)

- ‘(2) If the council decides to remove the chancellor, vice-chancellor or chairperson from office under subsection (1), the council must as soon as practicable give the chancellor, vice-chancellor or chairperson notice of the decision and the reasons for it.
- ‘(3) The chancellor’s, vice-chancellor’s or chairperson’s term of office ends on the later of the following—
 - (a) the day he or she receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.

‘39D Particular matters about removal of vice-chancellor

- ‘(1) The council may remove the vice-chancellor from office under section 39C despite the vice-chancellor’s terms of appointment.
- ‘(2) If the council removes the vice-chancellor from office under section 39C—
 - (a) the removal does not affect the vice-chancellor’s right to claim compensation or other entitlements under his or her terms of appointment applying when the appointment ends; and
 - (b) the vice-chancellor may only claim compensation and other entitlements under his or her terms of appointment as if—
 - (i) the appointment had been ended as permitted under the terms of appointment; or
 - (ii) his or her term of office had ended.

‘39E Vacation of office

- ‘(1) The office of the chancellor, vice-chancellor or chairperson becomes vacant if he or she—
 - (a) can not continue as the chancellor, vice-chancellor or chairperson under section 39B; or
 - (b) is removed from office under section 39C.

- ‘(2) The office of the deputy chancellor becomes vacant if his or her office as a member becomes vacant under section 24 or he or she otherwise stops being a member.’.

87 Amendment of s 56 (Making of university statutes)

- (1) Section 56(2)(g) to (j)—
renumber as section 56(2)(i) to (l).
- (2) Section 56(2)—
insert—
- ‘(g) the process for removing a person from office under section 26B or 39C;²²
- (h) the spending of funds under a delegation under section 11(3);’.

88 Amendment of s 60 (Forming and taking part in corporations)

Section 60(1), ‘include’—

omit, insert—

‘include any of’.

89 Insertion of new ss 61A–61C

After section 61—

insert—

‘61A Protection from liability

- ‘(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- ‘(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the university.

²² Section 26B (Council may remove member from office) or 39C (Council may remove chancellor, vice-chancellor or chairperson from office)

‘61B Report about person’s criminal history

- ‘(1) To decide whether to recommend to the Governor in Council a person for appointment under section 14(2) as an appointed member, the Minister may ask the commissioner of the police service for—
- (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(2) To decide whether a person is eligible to be the chancellor, vice-chancellor or chairperson, or an elected or additional member, the council may ask the commissioner of the police service for—
- (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(3) The commissioner of the police service must comply with a request under subsection (1) or (2).
- ‘(4) However, the Minister or council may make a request about a person under subsection (1) or (2) only if the person has given the Minister or council written consent for the request.
- ‘(5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.
- ‘(6) The Minister or council must ensure that a report given to the Minister or council under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- ‘(7) In this section—
- criminal history*, of a person, means the person’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

‘61C Delegation by Minister

‘The Minister may delegate the Minister’s power under section 61B(1) to an appropriately qualified officer of the department.’.

90 Insertion of new pt 8

After section 64—

insert—

‘Part 8 Transitional provisions for the University Legislation Amendment Act 2005

‘Division 1 Preliminary**‘65 Definitions for pt 8**

‘In this part—

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

new additional members see section 68.

pre-amended Act means this Act as in force before the commencement of the *University Legislation Amendment Act 2005*, part 5.

‘Division 2 Provisions about council membership

‘66 Appointed members

- ‘(1) This section applies to a person who was an appointed member immediately before the commencement.
- ‘(2) The person is taken to have been appointed as an appointed member for a term of 4 years, unless the person was appointed to fill a casual vacancy in the office of an appointed member.

- ‘(3) If the person was appointed to fill a casual vacancy in the office of an appointed member, the term of office of the person’s predecessor is taken to be 4 years.
- ‘(4) Subsections (2) and (3) apply despite section 18 of the pre-amended Act.

‘67 **Elected members**

- ‘(1) A person who, immediately before the commencement, was an elected member mentioned in section 15(2)(b) of the pre-amended Act is taken to be an elected member mentioned in section 15(2)(b) of this Act as in force after the commencement.
- ‘(2) A person who, immediately before the commencement, was an elected member appointed under section 15 of the pre-amended Act is taken to have been elected under that section.

‘68 **Appointment of new additional members**

‘The council must, within 1 year after the commencement, appoint 2 persons as additional members (the *new additional members*) under section 16.

‘69 **Continuation, and term of office, of additional members**

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

‘70 Council need not include additional members

‘Despite section 12, the council need not include additional members before the new additional members’ terms of office start.’.

91 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *indictable offence*—
omit.

(2) Schedule 2—
insert—

‘***academic committee*** means the committee of the council that is responsible for advising the council about the academic policies and activities of the university.

chairperson means the chairperson of the academic committee.

commencement, for part 8, see section 65.

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

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

conviction means a conviction other than a spent conviction.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,²³ applies to the indictable offence.

new additional members, for part 8, see section 65.

notice means written notice.

pre-amended Act, for part 8, see section 65.

spent conviction means a conviction—

23 Criminal Code, section 659 (Effect of summary conviction for indictable offence)

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (b) that is not revived as prescribed by section 11²⁴ of that Act.’.
- (2A) Schedule 2, definition *elected member*, ‘or appointed’—
omit.
- (3) Schedule 2, definition *general staff*, ‘*general*’—
omit, insert—
‘professional’.

Part 6 Amendment of University of Queensland Act 1998

92 Act amended in pt 6

This part amends the *University of Queensland Act 1998*.

93 Amendment of s 11 (Delegation)

Section 11—

insert—

- ‘(3) Despite subsection (2)(c), the senate may delegate its power to approve spending of funds mentioned in that paragraph if the expenditure is for a scholarship or a prize funded by bequest, donation or special grant.’.

94 Replacement of ss 12 and 13

Sections 12 and 13—

omit, insert—

24 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

‘12 Membership of senate

‘The senate consists of official members, appointed members, elected members and additional members.’

‘13 Official members

- ‘(1) There are 3 official members.
- ‘(2) The official members are—
- (a) the chancellor; and
 - (b) the vice-chancellor; and
 - (c) the president of the academic board.’.

95 Amendment of s 14 (Appointed members)

Section 14(1)—

omit, insert—

- ‘(1) There are 8 appointed members.’.

96 Amendment of s 15 (Elected members)

- (1) Section 15(1), ‘15’—

omit, insert—

‘8’.

- (2) Section 15(2)(b) to (e)—

omit, insert—

- ‘(b) 1 member of the university’s full-time or part-time academic staff; and
- (c) 1 member of the university’s full-time or part-time general staff; and
- (d) 1 undergraduate student; and
- (e) 1 postgraduate student; and
- (f) 3 graduates of the university, other than persons eligible for membership under paragraph (a), (b), (c) (d) or (e).’.

(3) Section 15(3)(b) and (c)—

omit, insert—

‘(b) for an elected member mentioned in subsection (2)(b)—

(i) all the members of the full-time academic staff, and those members of the part-time academic staff eligible under a university statute, may vote; or

(ii) if a statute under subparagraph (i) is not in force, all the members of the full-time and part-time academic staff may vote; or

(c) for an elected member mentioned in subsection (2)(c)—

(i) all the members of the full-time general staff, and those members of the part-time general staff eligible under a university statute, may vote; or

(ii) if a statute under subparagraph (i) is not in force, all the members of the full-time and part-time general staff may vote; or’.

(4) Section 15(3)(d), before ‘students’—

insert—

‘undergraduate’.

(5) Section 15(3)(e)—

omit, insert—

‘(e) for an elected member mentioned in subsection (2)(e)—all the postgraduate students may vote; or

(f) for an elected member mentioned in subsection (2)(f)—all the graduates of the university eligible under a university statute may vote.’.

(6) Section 15—

insert—

‘(5) In this section—

postgraduate student means a student enrolled in a course or program leading to the award of a postgraduate certificate or diploma, or a master’s or doctoral degree, of the university.

undergraduate student means a student who is not a postgraduate student.’.

97 Replacement of s 16 (Additional members)

Section 16—

omit, insert—

‘16 Additional members

- ‘(1) There are 3 additional members.
- ‘(2) The senate must appoint the additional members.
- ‘(3) An additional member must not be a student or a member of the university’s academic staff or general staff.’.

98 Amendment of s 17 (When senate is taken to be properly constituted)

Section 17, ‘20’—

omit, insert—

‘13’.

99 Amendment of s 18 (Appointed member’s term of office)

Section 18, ‘3 years’—

omit, insert—

‘4 years’.

100 Amendment of s 19 (Elected member’s term of office)

(1) Section 19(1)—

omit, insert—

- ‘(1) An elected member mentioned in section 15(2)(a), (b), (c) or (f) holds office for 4 years.
- ‘(1A) An elected member mentioned in section 15(2)(d) or (e) holds office for 2 years.’.

(2) Section 19(2)(a), ‘or reappointed’—

omit.

(3) Section 19(1A) and (2)—

renumber as section 19(2) and (3).

101 Replacement of s 20 (Additional member’s term of office)

Section 20—

omit, insert—

‘20 Additional member’s term of office

‘An additional member is to be appointed for a term of not more than 4 years decided by the senate.’.

102 Replacement of s 23 (Ineligibility for membership of senate)

Section 23—

omit, insert—

‘23 Ineligibility for membership of senate

‘(1) A person is not eligible to become an elected, appointed or additional member if—

(a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6;²⁵ or

(b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).

‘(2) Also, a person is not eligible to be elected or appointed as an elected, appointed or additional member if the person’s election or appointment as the member would result in the person being a member for 12 years or more, whether continuously or not.

25 Corporations Act, part 2D.6 (Disqualification from managing corporations)

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

103 Amendment of s 24 (Vacation of office)

- (1) Section 24(1)(f) and (g)—

omit, insert—

- ‘(f) the member is removed from office under section 26B; or
- (g) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (h) the member is convicted of an indictable offence, other than an offence in relation to which the member’s office becomes vacant under paragraph (g).’.

- (2) Section 24(2)—

omit, insert—

- ‘(2) Subsection (1)(h) is subject to sections 25 and 26.’.

104 Insertion of new pt 2, divs 3A and 3B

After section 26—

insert—

‘Division 3A Members’ function, and removing elected, appointed and additional members from office

‘26A Member’s function, and obligations about function

- ‘(1) A member has the function of ensuring the senate performs its functions and exercises its powers appropriately, effectively and efficiently.
- ‘(2) In performing the function, a member—
- (a) must act honestly and in the best interests of the university; and

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

'26B Senate may remove member from office

- '(1) The senate may remove an elected, appointed or additional member from office if at least 15 members are satisfied the member has not complied with—
 - (a) section 26A(2); or
 - (b) a conduct obligation.
- '(2) If the senate decides to remove a member from office under subsection (1), the senate must as soon as practicable—
 - (a) give the member notice of the decision and the reasons for it; and
 - (b) if the member is an appointed member—give the Minister a copy of the notice.
- '(3) If the senate gives a member a notice under subsection (2)(a), the member's term of office ends on the later of the following—
 - (a) the day the member receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.
- '(4) The senate's power to remove an appointed member from office under this section does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).²⁶

²⁶ *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

‘Division 3B Extending terms of office**‘26C Minister may extend terms of office**

- ‘(1) The Minister may, by notice given to the senate, extend the terms of office of the elected, appointed and additional members for not more than 1 year if the Minister is satisfied the extension—
- (a) is in the best interests of the university; and
 - (b) is necessary for the senate to perform its functions and exercise its powers appropriately, effectively and efficiently.
- ‘(2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all elected, appointed and additional members.
- ‘(3) The extension applies only to members holding office when the notice is given under subsection (1).
- ‘(4) This section—
- (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
 - (b) applies despite sections 18, 19(1) and (2) and 20.’.

105 Replacement of s 30 (Chancellor)

Section 30—

omit, insert—

‘30 Chancellor

- ‘(1) There is a chancellor of the university.
- ‘(2) The senate must elect a chancellor whenever there is a vacancy in the office.
- ‘(3) The person elected need not be a member.
- ‘(4) The person elected must not be a student or a member of the university’s academic staff or general staff.

‘(5) The chancellor holds office for the term, not longer than 5 years, fixed by the senate.’.

106 Amendment of s 31 (Deputy chancellor)

Section 31(3), ‘3 years’—

omit, insert—

‘4 years’.

107 Omission of pt 4, div 1 (Convocation)

Part 4, division 1—

omit.

108 Insertion of new s 35AA

Part 4, division 3, after section 35—

insert—

‘35AA President of academic board

‘(1) There is to be a president of the academic board.

‘(2) The senate must decide who is the president.

‘(3) The president holds office for the term, not longer than 1 year, decided by the senate.’.

109 Amendment of s 35A (Excluded matters for Corporations legislation)

(1) Section 35A(a)—

omit.

(2) Section 35A(b) and (c)—

renumber as section 35A(a) and (b).

110 Insertion of new pt 4A

Before part 5—

insert—

‘Part 4A**Matters relating to offices of
chancellor, deputy chancellor,
vice-chancellor and president****‘35C Disqualification from office**

- ‘(1) A person can not become, or continue as, the chancellor, vice-chancellor or president if—
- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (b) subject to subsections (2) to (4), the person has a conviction for an indictable offence other than an offence in relation to which the person is disqualified from office under paragraph (a).
- ‘(2) If the senate considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in subsection (1)(b) of which the person has been convicted, the senate may—
- (a) if the person was the chancellor, vice-chancellor or president when convicted—give notice to the person that the person—
 - (i) is restored as the chancellor, vice-chancellor or president; and
 - (ii) may be later re-elected or reappointed, despite the conviction; or
 - (b) otherwise—give written approval for the person to become the chancellor, vice-chancellor or president despite the conviction.
- ‘(3) On the day the person receives a notice under subsection (2)(a)—
- (a) the person is restored as the chancellor, vice-chancellor or president; and
 - (b) if another person has been elected or appointed to fill the vacancy—the other person’s term of office ends.
- ‘(4) If a person is restored as the chancellor, vice-chancellor or president under subsection (3), the person’s term of office as

the chancellor, vice-chancellor or president ends when it would have ended if the person had not been convicted of the offence.

‘35D Senate may remove chancellor, vice-chancellor or president from office

- ‘(1) The senate may remove the chancellor, vice-chancellor or president from office if at least 15 members are satisfied the chancellor, vice-chancellor or president has not complied with—
- (a) section 26A(2);²⁷ or
 - (b) a conduct obligation.
- ‘(2) If the senate decides to remove the chancellor, vice-chancellor or president from office under subsection (1), the senate must as soon as practicable give the chancellor, vice-chancellor or president notice of the decision and the reasons for it.
- ‘(3) The chancellor’s, vice-chancellor’s or president’s term of office ends on the later of the following—
- (a) the day he or she receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.

‘35E Particular matters about removal of vice-chancellor

- ‘(1) The senate may remove the vice-chancellor from office under section 35D despite the vice-chancellor’s terms of appointment.
- ‘(2) If the senate removes the vice-chancellor from office under section 35D—
- (a) the removal does not affect the vice-chancellor’s right to claim compensation or other entitlements under his or her terms of appointment applying when the appointment ends; and

²⁷ Section 26A (Member’s function, and obligations about function)

- (b) the vice-chancellor may only claim compensation and other entitlements under his or her terms of appointment as if—
 - (i) the appointment had been ended as permitted under the terms of appointment; or
 - (ii) his or her term of office had ended.

‘35F Vacation of office

- ‘(1) The office of the chancellor, vice-chancellor or president becomes vacant if he or she—
 - (a) can not continue as the chancellor, vice-chancellor or president under section 35C; or
 - (b) is removed from office under section 35D.
- ‘(2) The office of the deputy chancellor becomes vacant if his or her office as a member becomes vacant under section 24 or he or she otherwise stops being a member.’.

111 Amendment of s 52 (Making of university statutes)

- (1) Section 52(2)(e)—
omit.
- (2) Section 52(2)(f), after ‘members’—
insert—
‘, including the voting rights of graduates, part-time academic staff and part-time general staff of the university’.
- (3) Section 52(2)—
insert—
‘(fa) the process for removing a person from office under

section 26B or 35D;²⁸

(fb) the spending of funds under a delegation under section 11(3);’.

- (4) Section 52(2)(f) to (k)—
renumber as section 52(2)(e) to (l).

112 Amendment of s 55 (Forming and taking part in corporations)

Section 55(1), ‘include’—
omit, insert—
‘include any of’.

113 Insertion of new ss 56A–56C

After section 56—
insert—

‘56A Protection from liability

- ‘(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- ‘(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the university.

‘56B Report about person’s criminal history

- ‘(1) To decide whether to recommend to the Governor in Council a person for appointment under section 14(2) as an appointed member, the Minister may ask the commissioner of the police service for—
- (a) a written report about the person’s criminal history; and
- (b) a brief description of the circumstances of a conviction mentioned in the criminal history.

²⁸ Section 26B (Senate may remove member from office) or 35D (Senate may remove chancellor, vice-chancellor or president from office)

- ‘(2) To decide whether a person is eligible to be the chancellor, vice-chancellor or president, or an elected or additional member, the senate may ask the commissioner of the police service for—
- (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(3) The commissioner of the police service must comply with a request under subsection (1) or (2).
- ‘(4) However, the Minister or senate may make a request about a person under subsection (1) or (2) only if the person has given the Minister or senate written consent for the request.
- ‘(5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.
- ‘(6) The Minister or senate must ensure that a report given to the Minister or senate under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- ‘(7) In this section—
- criminal history*, of a person, means the person’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

‘56C Delegation by Minister

‘The Minister may delegate the Minister’s power under section 56B(1) to an appropriately qualified officer of the department.’.

114 Insertion of new pt 8, div 2

After section 60—

insert—

**‘Division 2 Transitional provisions for the
University Legislation Amendment
Act 2005**

‘Subdivision 1 Preliminary

‘61 Definitions for div 2

‘In this division—

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

new additional members see section 67.

new appointed members see section 63(2).

pre-amended Act means this Act as in force before the commencement of the *University Legislation Amendment Act 2005*, part 6.

**‘Subdivision 2 Provisions about membership of
senate**

‘62 Continuation of official members

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

‘63 Appointment of new appointed members

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

‘(2) The Governor in Council may appoint the persons as appointed members (the *new appointed members*).

‘64 Continuation of appointed members

- ‘(1) This section applies to a person who was an appointed member immediately before the commencement.
- ‘(2) Despite sections 14(1) and 60(2), the person continues as an appointed member until—
 - (a) the new appointed members’ terms of office start; or
 - (b) the person’s office sooner becomes vacant.

‘65 Continuation of elected members

- ‘Despite section 15(1) and (2), a person who was an elected member immediately before the commencement continues as an elected member until—
- (a) the person’s term of office ends under section 66; or
 - (b) the person’s office sooner becomes vacant.

‘66 Ballot, and term of office, for elected members

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

- ‘(7) The person’s term of office ends when the elected member mentioned in section 15(2)(c) of the post-amended Act is elected under the ballot.
- ‘(8) Subsection (9) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(d) of the pre-amended Act.
- ‘(9) The person’s term of office ends when the elected member mentioned in section 15(2)(d) of the post-amended Act is elected under the ballot.
- ‘(10) Subsection (11) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(e) of the pre-amended Act.
- ‘(11) The person’s term of office ends when the elected members mentioned in section 15(2)(f) of the post-amended Act are elected under the ballot.
- ‘(12) A person is taken to be elected under the ballot when the new appointed members’ terms of office start.
- ‘(13) Despite section 19(3), the term of office of a person elected under the ballot starts when the new appointed members’ terms of office start.
- ‘(14) Subsections (3), (5), (7), (9) and (11) apply despite sections 19(1) and (2) and 60(2).
- ‘(15) In this section—

post-amended Act means this Act as in force after the commencement of the *University Legislation Amendment Act 2005*, part 6.

‘67 Appointment of new additional members

‘The senate must, within 1 year after the commencement, appoint 3 persons as additional members (the *new additional members*) under section 16.

‘68 Continuation of additional members

- ‘(1) This section applies to a person who was an additional member immediately before the commencement.

- ‘(2) Despite section 60(2), the person continues as an additional member until—
- (a) the new additional members’ terms of office start; or
 - (b) the person’s office sooner becomes vacant.

‘69 Senate need not include additional members

‘Despite section 12, the senate need not include additional members before the new additional members’ terms of office start.

‘70 Dealing with casual vacancy in office of elected member

- ‘(1) This section applies if a casual vacancy arises in the office of an elected member after the commencement and before the ballot mentioned in section 66(1) is conducted.
- ‘(2) For appointing a person to the office, the pre-amended Act continues to apply as if the *University Legislation Amendment Act 2005*, part 6, had not commenced.

‘Subdivision 3 Constitution of senate

‘71 Constitution of senate

- ‘(1) This section applies until the new appointed members’ terms of office start.
- ‘(2) Despite section 17, the senate is taken to be properly constituted when it has 20 or more members, whether they be additional, appointed, elected or official members.’.

115 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *convocation*, *graduate staff* and *indictable offence*—
omit.

(2) Schedule 2—

*insert—***‘commencement**, for part 8, division 2, see section 61.**conduct obligation**, in relation to a member, means an obligation that—

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

conviction means a conviction other than a spent conviction.**graduate**, of the university, means a person awarded a degree, diploma or certificate of the university or the former Queensland Agricultural College.**indictable offence** includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,²⁹ applies to the indictable offence.**new additional members**, for part 8, division 2, see section 61.**new appointed members**, for part 8, division 2, see section 61.**notice** means written notice.**pre-amended Act**, for part 8, division 2, see section 61.**president** means the president of the academic board.**spent conviction** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11³⁰ of that Act.’.

(3) Schedule 2, definition *elected member*, ‘or appointed’—*omit.*

29 Criminal Code, section 659 (Effect of summary conviction for indictable offence)

30 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

Part 7**Amendment of University of
Southern Queensland Act 1998****116 Act amended in pt 7**

This part amends the *University of Southern Queensland Act 1998*.

117 Amendment of s 11 (Delegation)

Section 11—

insert—

- ‘(3) Despite subsection (2)(c), the council may delegate its power to approve spending of funds available to the university by way of bequest, donation or special grant if—
- (a) the expenditure is for a matter funded by bequest, donation or special grant; and
 - (b) the amount of expenditure for the matter is not more than \$100 000.’.

118 Replacement of ss 12 and 13

Sections 12 and 13—

omit, insert—

‘12 Membership of council

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

‘13 Official members

- ‘(1) There are 3 official members.
- ‘(2) The official members are—
- (a) the chancellor; and
 - (b) the vice-chancellor; and
 - (c) the chairperson of the academic board.’.

119 Amendment of s 14 (Appointed members)

Section 14(1), ‘8’—

omit, insert—

‘5’.

120 Amendment of s 15 (Elected members)

(1) Section 15(1), ‘7’—

omit, insert—

‘3’.

(2) Section 15(2)(a), ‘3 members’—

omit, insert—

‘1 member’.

(3) Section 15(2)(d)—

omit.

(4) Section 15(3), ‘mentioned in subsection (2)(a) to (c)’—

omit.

(5) Section 15(4) and (5)—

omit.

121 Replacement of s 16 (Additional members)

Section 16—

omit, insert—

‘16 Additional members

‘(1) There are 3 additional members.

‘(2) The council must appoint the additional members.

‘(3) The council must appoint at least 1 graduate of the university as an additional member.

‘(4) An additional member must not be a student or a member of the university’s academic staff or general staff.’.

122 Amendment of s 17 (When council is taken to be properly constituted)

Section 17, '12'—

omit, insert—

'8'.

123 Amendment of s 18 (Appointed member's term of office)

Section 18, '3 years'—

omit, insert—

'4 years'.

124 Amendment of s 19 (Elected member's term of office)

(1) Section 19(1)—

omit, insert—

'(1) An elected member mentioned in section 15(2)(a) or (b) holds office for 4 years.

'(1A) An elected member mentioned in section 15(2)(c) holds office for 2 years.'

(2) Section 19(2)(a), 'or reappointed'—

omit.

(3) Section 19(1A) and (2)—

renumber as section 19(2) and (3).

125 Replacement of s 20 (Additional member's term of office)

Section 20—

omit, insert—

'20 Additional member's term of office

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

125A Amendment of s 20A (Dealing with casual vacancy in office of particular elected members)

Section 20A(5), from ‘council’—

omit, insert—

‘council may appoint a student to the office.’.

126 Replacement of s 21 (Failure to elect or appoint elected members)

Section 21—

omit, insert—

‘21 Failure to elect elected member

- ‘(1) If an entity permitted to elect an elected member does not elect a person as the elected member by a day fixed by the council by notice given to the entity, the Minister may appoint a member of the entity as the elected member.
- ‘(2) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).
- ‘(3) A person appointed under subsection (1) is taken to have been elected by the entity under section 15.
- ‘(4) This section applies to the periodic election of members and an election required because of a casual vacancy.’.

127 Replacement of s 23 (Ineligibility for membership of council)

Section 23—

omit, insert—

‘23 Ineligibility for membership of council

- ‘(1) A person is not eligible to become an elected, appointed or additional member if—

- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6;³¹ or
 - (b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).
- ‘(2) Also, a person is not eligible to be elected or appointed as an elected, appointed or additional member if the person’s election or appointment as the member would result in the person being a member for 12 years or more, whether continuously or not.
- ‘(3) Subsection (2) does not apply to a person if a majority of members agree the person may be elected or appointed as an elected, appointed or additional member.
- ‘(4) Subsection (1)(b) is subject to sections 25 and 26.’.

128 Amendment of s 24 (Vacation of office)

- (1) Section 24(1)(f) and (g)—
omit, insert—
- ‘(f) the member is removed from office under section 26B; or
 - (g) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (h) the member is convicted of an indictable offence, other than an offence in relation to which the member’s office becomes vacant under paragraph (g).’.
- (2) Section 24(2)—
omit, insert—
- ‘(2) Subsection (1)(h) is subject to sections 25 and 26.’.

129 Insertion of new pt 2, divs 3A and 3B

After section 26—

insert—

31 Corporations Act, part 2D.6 (Disqualification from managing corporations)

**‘Division 3A Members’ function, and removing
elected, appointed and additional
members from office**

‘26A Member’s function, and obligations about function

- ‘(1) A member has the function of ensuring the council performs its functions and exercises its powers appropriately, effectively and efficiently.
- ‘(2) In performing the function, a member—
 - (a) must act honestly and in the best interests of the university; and
 - (b) must exercise reasonable skill, care and diligence; and
 - (c) must disclose to the council any conflict that may arise between the member’s personal interests and the interests of the university; and
 - (d) must not make improper use of his or her position as a member, or of information acquired because of his or her position as a member, to gain, directly or indirectly, an advantage for the member or another person.

‘26B Council may remove member from office

- ‘(1) The council may remove an elected, appointed or additional member from office if at least 9 members are satisfied the member has not complied with—
 - (a) section 26A(2); or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove a member from office under subsection (1), the council must as soon as practicable—
 - (a) give the member notice of the decision and the reasons for it; and
 - (b) if the member is an appointed member—give the Minister a copy of the notice.

- ‘(3) If the council gives a member a notice under subsection (2)(a), the member’s term of office ends on the later of the following—
- (a) the day the member receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.
- ‘(4) The council’s power to remove an appointed member from office under this section does not limit the Governor in Council’s powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).³²

‘Division 3B Extending terms of office

‘26C Minister may extend terms of office

- ‘(1) The Minister may, by notice given to the council, extend the terms of office of the elected, appointed and additional members for not more than 1 year if the Minister is satisfied the extension—
- (a) is in the best interests of the university; and
 - (b) is necessary for the council to perform its functions and exercise its powers appropriately, effectively and efficiently.
- ‘(2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all elected, appointed and additional members.
- ‘(3) The extension applies only to members holding office when the notice is given under subsection (1).
- ‘(4) This section—
- (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
 - (b) applies despite sections 18, 19(1) and (2) and 20.’.

³² *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

130 Amendment of s 30 (Chancellor)

- (1) Section 30(4)—
renumber as section 30(5).
- (2) Section 30—
insert—
- ‘(4) The person elected must not be a student or a member of the university’s academic staff or general staff.’.

131 Amendment of s 31 (Deputy chancellor)

- Section 31(3), ‘3 years’—
omit, insert—
‘4 years’.

132 Insertion of new s 39AA

- Part 4, division 3, after section 39—
insert—

‘39AA Chairperson of academic board

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

133 Insertion of new pt 4A

- Before part 5—
insert—

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

‘39C Disqualification from office

- ‘(1) A person can not become, or continue as, the chancellor, vice-chancellor or chairperson if—
- (a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6; or
 - (b) subject to subsections (2) to (4), the person has a conviction for an indictable offence other than an offence in relation to which the person is disqualified from office under paragraph (a).
- ‘(2) If the council considers it would be reasonable, having regard to the circumstances of the indictable offence mentioned in subsection (1)(b) of which the person has been convicted, the council may—
- (a) if the person was the chancellor, vice-chancellor or chairperson when convicted—give notice to the person that the person—
 - (i) is restored as the chancellor, vice-chancellor or chairperson; and
 - (ii) may be later re-elected or reappointed, despite the conviction; or
 - (b) otherwise—give written approval for the person to become the chancellor, vice-chancellor or chairperson despite the conviction.
- ‘(3) On the day the person receives a notice under subsection (2)(a)—
- (a) the person is restored as the chancellor, vice-chancellor or chairperson; and
 - (b) if another person has been elected or appointed to fill the vacancy—the other person’s term of office ends.

- ‘(4) If a person is restored as the chancellor, vice-chancellor or chairperson under subsection (3), the person’s term of office as the chancellor, vice-chancellor or chairperson ends when it would have ended if the person had not been convicted of the offence.

‘39D Council may remove chancellor, vice-chancellor or chairperson from office

- ‘(1) The council may remove the chancellor, vice-chancellor or chairperson from office if at least 9 members are satisfied the chancellor, vice-chancellor or chairperson has not complied with—
- (a) section 26A(2);³³ or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove the chancellor, vice-chancellor or chairperson from office under subsection (1), the council must as soon as practicable give the chancellor, vice-chancellor or chairperson notice of the decision and the reasons for it.
- ‘(3) The chancellor’s, vice-chancellor’s or chairperson’s term of office ends on the later of the following—
- (a) the day he or she receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.

‘39E Particular matters about removal of vice-chancellor

- ‘(1) The council may remove the vice-chancellor from office under section 39D despite the vice-chancellor’s terms of appointment.
- ‘(2) If the council removes the vice-chancellor from office under section 39D—
- (a) the removal does not affect the vice-chancellor’s right to claim compensation or other entitlements under his or

33 Section 26A (Member’s function, and obligations about function)

her terms of appointment applying when the appointment ends; and

- (b) the vice-chancellor may only claim compensation and other entitlements under his or her terms of appointment as if—
 - (i) the appointment had been ended as permitted under the terms of appointment; or
 - (ii) his or her term of office had ended.

‘39F Vacation of office

- ‘(1) The office of the chancellor, vice-chancellor or chairperson becomes vacant if he or she—
 - (a) can not continue as the chancellor, vice-chancellor or chairperson under section 39C; or
 - (b) is removed from office under section 39D.
- ‘(2) The office of the deputy chancellor becomes vacant if his or her office as a member becomes vacant under section 24 or he or she otherwise stops being a member.’.

134 Amendment of s 56 (Making of university statutes)

- (1) Section 56(2)(f) to (i)—
renumber as section 56(2)(h) to (k).
- (2) Section 56(2)—
insert—
 - ‘(f) the process for removing a person from office under section 26B or 39D;³⁴
 - (g) the spending of funds under a delegation under section 11(3);’.

³⁴ Section 26B (Council may remove member from office) or 39D (Council may remove chancellor, vice-chancellor or chairperson from office)

135 Amendment of s 60 (Forming and taking part in corporations)

Section 60(1), ‘include’—

omit, insert—

‘include any of’.

136 Insertion of new ss 61A–61C

After section 61—

insert—

‘61A Protection from liability

- ‘(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- ‘(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the university.

‘61B Report about person’s criminal history

- ‘(1) To decide whether to recommend to the Governor in Council a person for appointment under section 14(2) as an appointed member, the Minister may ask the commissioner of the police service for—
 - (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(2) To decide whether a person is eligible to be the chancellor, vice-chancellor or chairperson, or an elected or additional member, the council may ask the commissioner of the police service for—
 - (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(3) The commissioner of the police service must comply with a request under subsection (1) or (2).

- ‘(4) However, the Minister or council may make a request about a person under subsection (1) or (2) only if the person has given the Minister or council written consent for the request.
- ‘(5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.
- ‘(6) The Minister or council must ensure that a report given to the Minister or council under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- ‘(7) In this section—
- criminal history*, of a person, means the person’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

‘61C Delegation by Minister

‘The Minister may delegate the Minister’s power under section 61B(1) to an appropriately qualified officer of the department.’.

137 Insertion of new pt 8, div 2

After section 76—

insert—

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

‘Subdivision 1 Preliminary

‘77 Definitions for div 2

‘In this division—

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

new additional members see section 83.

new appointed members see section 79(2).

pre-amended Act means this Act as in force before the commencement of the *University Legislation Amendment Act 2005*, part 7.

‘Subdivision 2 Provisions about council membership

‘78 Continuation of official members

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

‘79 Appointment of new appointed members

- ‘(1) The Minister must, within 1 year after the commencement, recommend to the Governor in Council 5 persons for appointment, under section 14(2), as appointed members.
- ‘(2) The Governor in Council may appoint the persons as appointed members (the *new appointed members*).

‘80 Continuation, and term of office, of appointed members

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

‘81 Continuation of elected members

- ‘(1) This section applies to a person who was an elected member immediately before the commencement.
- ‘(2) Despite section 15(1) and (2), the person continues as an elected member until—
 - (a) the person’s term of office ends under section 82; or
 - (b) the person’s office sooner becomes vacant.
- ‘(3) Despite section 19(1) and (2), the person’s term of office is 3 years.

‘82 Ballot, and term of office, for elected members

- ‘(1) At least 14 days before the new appointed members are appointed, a ballot under section 15(3) of the post-amended Act must be conducted for elected members.
- ‘(2) Subsection (3) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(a) of the pre-amended Act.
- ‘(3) The person’s term of office ends when the elected member mentioned in section 15(2)(a) of the post-amended Act is elected under the ballot.
- ‘(4) Subsection (5) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(b) or (c) of the pre-amended Act.
- ‘(5) The person’s term of office ends when the elected member who is the member’s successor is elected under the ballot.
- ‘(6) Subsection (7) applies to a person who, immediately before the ballot is conducted, is an elected member mentioned in section 15(2)(d) of the pre-amended Act.
- ‘(7) The person’s term of office ends when the new additional members’ terms of office start.
- ‘(8) A person is taken to be elected under the ballot when the new appointed members’ terms of office start.
- ‘(9) Despite section 19(3), the term of office of a person elected under the ballot starts when the new appointed members’ terms of office start.

‘(10) Subsections (3), (5) and (7) apply despite section 81(3).

‘(11) In this section—

post-amended Act means this Act as in force after the commencement of the *University Legislation Amendment Act 2005*, part 7.

‘83 Appointment of new additional members

‘The council must, within 1 year after the commencement, appoint 3 persons as additional members (the *new additional members*) under section 16.

‘84 Continuation, and term of office, of additional members

‘(1) A person who was an additional member immediately before the commencement continues as an additional member until—

- (a) the person’s term of office ends under subsection (2); or
- (b) the person’s office sooner becomes vacant.

‘(2) Despite section 20, the person’s term of office ends when the new additional members’ terms of office start.

‘85 Council need not include additional members

‘Despite section 12, the council need not include additional members before the new additional members’ terms of office start.

‘86 Dealing with casual vacancy in office of elected member

‘(1) This section applies if a casual vacancy arises in the office of an elected member after the commencement and before the ballot mentioned in section 82(1) is conducted.

‘(2) For appointing or electing a person to the office, the pre-amended Act continues to apply as if the *University Legislation Amendment Act 2005*, part 7, had not commenced.

‘Subdivision 3 Constitution of council

‘87 Constitution of council

- ‘(1) This section applies until the new appointed members’ terms of office start.
- ‘(2) Despite section 17, the council is taken to be properly constituted when it has 12 or more members, whether they be additional, appointed, elected or official members.’.

138 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *indictable offence*—
omit.

- (2) Schedule 2—
insert—

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

commencement, for part 8, division 2, see section 77.

commencing day, for part 8, division 1, see section 65.

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

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

continuing corporation, for part 8, division 1, see section 65.

conviction means a conviction other than a spent conviction.

former corporation, for part 8, division 1, see section 65.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,³⁵ applies to the indictable offence.

new additional members, for part 8, division 2, see section 77.

³⁵ Criminal Code, section 659 (Effect of summary conviction for indictable offence)

new appointed members, for part 8, division 2, see section 77.

notice means written notice.

pre-amended Act, for part 8, division 2, see section 77.

previous council, for part 8, division 1, see section 65.

repealed Act, for part 8, division 1, see section 65.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11³⁶ of that Act.

student association, for part 8, division 1, see section 65.’.

- (3) Schedule 2, definition *elected member*, ‘or appointed’—
omit.

Part 8 Amendment of University of the Sunshine Coast Act 1998

139 Act amended in pt 8

This part amends the *University of the Sunshine Coast Act 1998*.

140 Amendment of s 11 (Delegation)

- (1) Section 11(1), ‘The university’—
omit, insert—
‘The council’.
- (2) Section 11—

³⁶ *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

insert—

- ‘(3) Despite subsection (2)(c), the council may delegate its power to approve spending of funds available to the university by way of bequest, donation or special grant if—
- (a) the expenditure is for a matter funded by bequest, donation or special grant; and
 - (b) the amount of expenditure for the matter is not more than \$100 000.’.

141 Replacement of ss 12 and 13

Sections 12 and 13—

omit, insert—

‘12 Membership of council

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

‘13 Official members

- ‘(1) There are 3 official members.
- ‘(2) The official members are—
- (a) the chancellor; and
 - (b) the vice-chancellor; and
 - (c) the chairperson of the academic board.’.

142 Amendment of s 14 (Appointed members)

Section 14(1), ‘8’—

omit, insert—

‘6’.

143 Amendment of s 15 (Elected members)

- (1) Section 15(1), ‘7’—
omit, insert—
‘5’.
- (2) Section 15(2)(a), ‘3’—
omit, insert—
‘2’.
- (3) Section 15(2)(c), ‘1 student, other than a person’—
omit, insert—
‘2 students, other than persons’.
- (4) Section 15(2)(d)—
omit.
- (5) Section 15(3)(d)—
omit.

144 Replacement of s 16 (Additional members)

Section 16—
omit, insert—

‘16 Additional members

- ‘(1) There are 4 additional members.
- ‘(2) The council must appoint the additional members.
- ‘(3) The council must appoint at least 1 graduate of the university as an additional member.
- ‘(4) An additional member must not be a student or a member of the university’s academic staff or general staff.’.

145 Amendment of s 17 (When council is taken to be properly constituted)

Section 17, '12'—

omit, insert—

'11'.

146 Amendment of s 18 (Appointed member's term of office)

Section 18, '3 years'—

omit, insert—

'4 years'.

147 Amendment of s 19 (Elected member's term of office)

(1) Section 19(1)—

omit, insert—

'(1) An elected member mentioned in section 15(2)(a) or (b) holds office for 4 years.

'(1A) An elected member mentioned in section 15(2)(c) holds office for 2 years.'

(2) Section 19(1A) and (2)—

renumber as section 19(2) and (3).

148 Replacement of s 20 (Additional member's term of office)

Section 20—

omit, insert—

'20 Additional member's term of office

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

149 Amendment of s 20A (Dealing with casual vacancy in office of an elected member)

(1) Section 20A(5)—

omit, insert—

‘(5) Despite subsection (4), if the elected member was a student, the council may appoint a student to the office.’.

(2) Section 20A(7)—

omit.

150 Amendment of s 22 (Casual vacancies)

Section 22, ‘an elected member’—

omit, insert—

‘a member’.

151 Replacement of s 23 (Ineligibility for membership of council)

Section 23—

omit, insert—

‘23 Ineligibility for membership of council

‘(1) A person is not eligible to become an additional, appointed or elected member if—

(a) the person is disqualified from managing corporations under the Corporations Act, part 2D.6;³⁷ or

(b) the person has a conviction for an indictable offence, other than an offence in relation to which the person is not eligible under paragraph (a).

‘(2) Also, a person is not eligible to be appointed or elected as an additional, appointed or elected member if the person’s appointment or election as the member would result in the person being a member for 12 years or more, whether continuously or not.

37 Corporations Act, part 2D.6 (Disqualification from managing corporations)

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

152 Amendment of s 24 (Vacation of office)

- (1) Section 24(1)(f) and (g)—

omit, insert—

- ‘(f) the member is removed from office under section 26B;
or
- (g) the member is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (h) the member is convicted of an indictable offence, other than an offence in relation to which the member’s office becomes vacant under paragraph (g).’.

- (2) Section 24(2)—

omit, insert—

- ‘(2) Subsection (1)(h) is subject to sections 25 and 26.’.

153 Insertion of new pt 2, divs 3A and 3B

After section 26—

insert—

‘Division 3A Members’ function, and removing additional, appointed and elected members from office

‘26A Member’s function, and obligations about function

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

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

'26B Council may remove member from office

- '(1) The council may remove an additional, appointed or elected member from office if at least 12 members are satisfied the member has not complied with—
 - (a) section 26A(2); or
 - (b) a conduct obligation.
- '(2) If the council decides to remove a member from office under subsection (1), the council must as soon as practicable—
 - (a) give the member notice of the decision and the reasons for it; and
 - (b) if the member is an appointed member—give the Minister a copy of the notice.
- '(3) If the council gives a member a notice under subsection (2)(a), the member's term of office ends on the later of the following—
 - (a) the day the member receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.
- '(4) The council's power to remove an appointed member from office under this section does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(i) or (iii).³⁸

38 *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

‘Division 3B Extending terms of office**‘26C Minister may extend terms of office**

- ‘(1) The Minister may, by notice given to the council, extend the terms of office of the additional, appointed and elected members for not more than 1 year if the Minister is satisfied the extension—
- (a) is in the best interests of the university; and
 - (b) is necessary for the council to perform its functions and exercise its powers appropriately, effectively and efficiently.
- ‘(2) If the Minister acts under subsection (1), the Minister must extend, by the same amount, the terms of office of all additional, appointed and elected members.
- ‘(3) The extension applies only to members holding office when the notice is given under subsection (1).
- ‘(4) This section—
- (a) does not allow the Minister to extend the terms of office of the members for more than 1 year by again acting under subsection (1); and
 - (b) applies despite sections 18, 19(1) and (2) and 20.’.

154 Amendment of s 30 (Chancellor)

- (1) Section 30(4)—
renumber as section 30(5).
- (2) Section 30—
insert—
- ‘(4) The person elected must not be a student or a member of the university’s academic staff or general staff.’.

155 Amendment of s 31 (Deputy chancellor)

Section 31(3), ‘3 years’—

omit, insert—

‘4 years’.

156 Omission of pt 4, div 1 (Convocation)

Part 4, division 1—

omit.

157 Insertion of new s 40AA

Part 4, division 4, after section 40—

insert—

‘40AA Chairperson of academic board

‘(1) There is to be a chairperson of the academic board.

‘(2) The council must decide who is the chairperson.

‘(3) The chairperson holds office for the term, not longer than 3 years, decided by the council.’.

158 Amendment of s 40A (Excluded matters for Corporations legislation)

(1) Section 40A(1)(a)—

omit.

(2) Section 40A(1)(b) and (c)—

renumber as section 40A(1)(a) and (b).

159 Insertion of new pt 4A

Before part 5—

insert—

- ‘(4) If a person is restored as the chancellor, vice-chancellor or chairperson under subsection (3), the person’s term of office as the chancellor, vice-chancellor or chairperson ends when it would have ended if the person had not been convicted of the offence.

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

- ‘(1) The council may remove the chancellor, vice-chancellor or chairperson from office if at least 12 members are satisfied the chancellor, vice-chancellor or chairperson has not complied with—
- (a) section 26A(2);³⁹ or
 - (b) a conduct obligation.
- ‘(2) If the council decides to remove the chancellor, vice-chancellor or chairperson from office under subsection (1), the council must as soon as practicable give the chancellor, vice-chancellor or chairperson notice of the decision and the reasons for it.
- ‘(3) The chancellor’s, vice-chancellor’s or chairperson’s term of office ends on the later of the following—
- (a) the day he or she receives the notice;
 - (b) the day, if any, stated in the notice for that purpose.

‘40E Particular matters about removal of vice-chancellor

- ‘(1) The council may remove the vice-chancellor from office under section 40D despite the vice-chancellor’s terms of appointment.
- ‘(2) If the council removes the vice-chancellor from office under section 40D—
- (a) the removal does not affect the vice-chancellor’s right to claim compensation or other entitlements under his or

³⁹ Section 26A (Member’s function, and obligations about function)

her terms of appointment applying when the appointment ends; and

- (b) the vice-chancellor may only claim compensation and other entitlements under his or her terms of appointment as if—
 - (i) the appointment had been ended as permitted under the terms of appointment; or
 - (ii) his or her term of office had ended.

‘40F Vacation of office

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

160 Amendment of s 58 (Making of university statutes)

- (1) Section 58(2)(e)—
omit.
- (2) Section 58(2)—
insert—
 - ‘(fa) the process for removing a person from office under section 26B or 40D;⁴⁰
 - (fb) the spending of funds under a delegation under section 11(3);’.
- (3) Section 58(2)(f) to (j)—
renumber as section 58(2)(e) to (k).

⁴⁰ Section 26B (Council may remove member from office) 40D (Council may remove chancellor, vice-chancellor or chairperson from office)

161 Amendment of s 63 (Forming and taking part in corporations)

Section 63(1), ‘include’—

omit, insert—

‘include any of’.

162 Insertion of new ss 64A–64C

After section 64—

insert—

‘64A Protection from liability

- ‘(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- ‘(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the university.

‘64B Report about person’s criminal history

- ‘(1) To decide whether to recommend to the Governor in Council a person for appointment under section 14(2) as an appointed member, the Minister may ask the commissioner of the police service for—
 - (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(2) To decide whether a person is eligible to be the chancellor, vice-chancellor or chairperson, or an elected or additional member, the council may ask the commissioner of the police service for—
 - (a) a written report about the person’s criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- ‘(3) The commissioner of the police service must comply with a request under subsection (1) or (2).

- ‘(4) However, the Minister or council may make a request about a person under subsection (1) or (2) only if the person has given the Minister or council written consent for the request.
- ‘(5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.
- ‘(6) The Minister or council must ensure that a report given to the Minister or council under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- ‘(7) In this section—
- criminal history*, of a person, means the person’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

‘64C Delegation by Minister

‘The Minister may delegate the Minister’s power under section 64B(1) to an appropriately qualified officer of the department.’.

163 Insertion of new pt 8, div 2

After section 82—

insert—

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

‘Subdivision 1 Preliminary

‘83 Definitions for div 2

‘In this division—

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

new additional members see section 89.

new appointed members see section 85(2).

pre-amended Act means this Act as in force before the commencement of the *University Legislation Amendment Act 2005*, part 8.

‘Subdivision 2 Provisions about council membership

‘84 Continuation of official members

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

‘85 Appointment of new appointed members

- ‘(1) The Minister must, within 1 year after the commencement, recommend to the Governor in Council 6 persons for appointment, under section 14(2), as appointed members.
- ‘(2) The Governor in Council may appoint the persons as appointed members (the *new appointed members*).

‘86 Continuation, and term of office, of appointed members

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

‘87 Continuation of elected members

- ‘(1) This section applies to a person who was an elected member immediately before the commencement.
- ‘(2) Despite section 15(1) and (2), the person continues as an elected member until—
 - (a) the person’s term of office ends under section 88; or
 - (b) the person’s office sooner becomes vacant.
- ‘(3) Despite section 19(1) and (2), the person’s term of office is 3 years.

‘88 Ballot, and term of office, for elected members

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

- ‘(9) The person’s term of office ends when the new additional members’ terms of office start.
- ‘(10) A person is taken to be elected under the ballot when the new appointed members’ terms of office start.
- ‘(11) Despite section 19(3), the term of office of a person elected under the ballot starts when the new appointed members’ terms of office start.
- ‘(12) Subsections (3), (5), (7) and (9) apply despite section 87(3).
- ‘(13) In this section—
post-amended Act means this Act as in force after the commencement of the *University Legislation Amendment Act 2005*, part 8.

‘89 Appointment of new additional members

‘The council must, within 1 year after the commencement, appoint 4 persons as additional members (the *new additional members*) under section 16.

‘90 Continuation, and term of office, of additional members

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

‘91 Council need not include additional members

‘Despite section 12, the council need not include additional members before the new additional members’ terms of office start.

‘92 Dealing with casual vacancy in office of elected member

- ‘(1) This section applies if a casual vacancy arises in the office of an elected member after the commencement and before the ballot mentioned in section 88(1) is conducted.
- ‘(2) For appointing or electing a person to the office, the pre-amended Act continues to apply as if the *University Legislation Amendment Act 2005*, part 8, had not commenced.

‘Subdivision 3 Constitution of council

‘93 Constitution of council

- ‘(1) This section applies until the new appointed members’ terms of office start.
- ‘(2) Despite section 17, the council is taken to be properly constituted when it has 12 or more members, whether they be additional, appointed, elected or official members.’.

164 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *additional member*, *appointed member*, *convicted*, *elected member*, *indictable offence* and *official member*—

omit.

- (2) Schedule 2—

insert—

‘additional member—

- (a) generally—means a member of the council appointed under section 16; and
- (b) for part 8, division 1—see section 68.

appointed member—

- (a) generally—means a member of the council appointed under section 14; and
- (b) for part 8, division 1—see section 68.

chairperson means the chairperson of the academic board.

commencement, for part 8, division 2, see section 83.

commencing day, for part 8, division 1, see section 68.

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

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

continuing corporation, for part 8, division 1, see section 68.

conviction means a conviction other than a spent conviction.

elected member—

- (a) generally—means a member of the council elected under section 15; and
- (b) for part 8, division 1—see section 68.

former corporation, for part 8, division 1, see section 68.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,⁴¹ applies to the indictable offence.

new additional members, for part 8, division 2, see section 83.

new appointed members, for part 8, division 2, see section 83.

notice means written notice.

official member—

- (a) generally—means a person who is an official member of the council under section 13; and
- (b) for part 8, division 1—see section 68.

pre-amended Act, for part 8, division 2, see section 83.

previous council, for part 8, division 1, see section 68.

QUT, for part 8, division 1, see section 68.

41 Criminal Code, section 659 (Effect of summary conviction for indictable offence)

repealed Act, for part 8, division 1, see section 68.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11⁴² of that Act.

union, for part 8, division 1, see section 68.

university college, for part 8, division 1, see section 68.⁷.

Part 9 Consequential and other amendments

165 Consequential and other amendments

The schedule amends the Acts it mentions.

42 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

Schedule Consequential and other amendments

section 165

Central Queensland University Act 1998

- 1 **Part 2, divisions 3A and 3B (as inserted by this Act), and 4—**
renumber as part 2, divisions 4, 5 and 6.

- 2 **Sections 25(1) and 26(1), after ‘indictable offence’—**
insert—
‘mentioned in section 23(1)(b) or 24(1)(h)’.

- 3 **Sections 25(1)(a) and 26(1)(a), ‘written’—**
omit.

- 4 **Part 4, divisions 2 to 5—**
renumber as part 4, divisions 1 to 4.

- 5 **Sections 40AA (as inserted by this Act) and 40A—**
renumber as sections 40A and 40B.

- 6 **Part 8, heading—**
omit, insert—

Schedule (continued)

‘Part 8 **Repeal and transitional provisions**

‘Division 1 **Repeal provision, and transitional provisions before the University Legislation Amendment Act 2005’.**

7 **Section 66, heading, ‘pt 8’—**

omit, insert—

‘div 1’.

8 **Section 66, ‘In this part’—**

omit, insert—

‘In this division’.

9 **Section 66, definition *commencing day*—**

omit, insert—

‘*commencing day* means the day the provision in which the term is used commences.’.

10 **Schedule 1, sections 2(1)(b) and 9(4), ‘written’—**

omit.

Griffith University Act 1998

1 **Sections 21(1), 25(1)(a) and 26(1)(a), ‘written’—**

omit.

Schedule (continued)

- 2 Sections 25(1) and 26(1), after ‘indictable offence’—**
insert—
‘mentioned in section 23(1)(b) or 24(1)(h)’.
- 3 Part 2, divisions 3A and 3B (as inserted by this Act), and 4—**
renumber as part 2, divisions 4, 5 and 6.
- 4 Part 3, before section 30—**
insert—
‘Division 1 Chancellor, deputy chancellor and vice-chancellor’.
- 5 Section 70, heading—**
omit, insert—
- ‘70 Definitions for div 1**
In this division—’.
- 6 Schedule 1, sections 2(1)(b) and 9(4), ‘written’—**
omit.

James Cook University Act 1997

- 1 Sections 25(1)(a) and 26(1)(a), ‘written’—**
omit.

Schedule (continued)

2 Sections 25(1) and 26(1), after ‘indictable offence’—*insert—*

‘mentioned in section 23(1)(b) or 24(1)(h)’.

3 Part 2, divisions 3A and 3B (as inserted by this Act), and 4—*renumber* as part 2, divisions 4, 5 and 6.**4 Sections 40AA (as inserted by this Act) and 40A—***renumber* as sections 40A and 40B.**5 Part 8, heading—***omit, insert—***‘Part 8 Repeal and transitional provisions****‘Division 1 Repeal provision’.****6 Schedule 1, section 8(4), ‘written’—***omit.***Queensland University of Technology Act 1998****1 Sections 25(1)(a) and 26(1)(a), ‘written’—***omit.*

Schedule (continued)

- 2 Sections 25(1) and 26(1), after ‘indictable offence’—**
insert—
‘mentioned in section 23(1)(b) or 24(1)(h)’.
- 3 Part 2, divisions 3A and 3B (as inserted by this Act), and 4—**
renumber as part 2, divisions 4, 5 and 6.
- 4 Schedule 1, sections 2(1)(b) and 9(4), ‘written’—**
omit.

University of Queensland Act 1998

- 1 Sections 21(1), 25(1)(a) and 26(1)(a), ‘written’—**
omit.
- 2 Sections 25(1) and 26(1), after ‘indictable offence’—**
insert—
‘mentioned in section 23(1)(b) or 24(1)(h)’.
- 3 Part 2, divisions 3A and 3B (as inserted by this Act), and 4—**
renumber as part 2, divisions 4, 5 and 6.
- 4 Part 4, divisions 2 to 4—**
renumber as part 4, divisions 1 to 3.

Schedule (continued)

- 5 **Sections 35AA (as inserted by this Act) and 35A—**
 renumber as sections 35A and 35B.
- 6 **Part 8, heading—**
 omit, insert—
- ‘Part 8 Transitional provisions**
- ‘Division 1 Transitional provision for**
 continuing in office particular
 members holding office in 2004’.
- 7 **Schedule 1, sections 2(1)(b) and 9(4), ‘written’—**
 omit.

University of Southern Queensland Act 1998

- 1 **Section 20A, heading, ‘particular elected members’—**
 omit, insert—
 ‘elected member’.
- 2 **Section 20A(1), from ‘member’, first mention—**
 omit, insert—
 ‘member.’.
- 3 **Sections 25(1) and 26(1), after ‘indictable offence’—**
 insert—
 ‘mentioned in section 23(1)(b) or 24(1)(h)’.

Schedule (continued)

- 4 Sections 25(1)(a) and 26(1)(a), ‘written’—**
omit.
- 5 Part 2, divisions 3A and 3B (as inserted by this Act), and 4—**
renumber as part 2, divisions 4, 5 and 6.
- 6 Sections 39AA (as inserted by this Act) and 39A—**
renumber as sections 39A and 39B.
- 7 Part 8, heading—**
omit, insert—
- ‘Part 8 Repeal and transitional provisions**
- ‘Division 1 Repeal provision, and transitional provisions before the University Legislation Amendment Act 2005’.**
- 8 Section 65, heading, ‘pt 8’—**
omit, insert—
‘div 1’.
- 9 Section 65, ‘In this part’—**
omit, insert—
‘In this division’.

Schedule (continued)

- 10 Section 65, definition *commencing day*—**
omit, insert—
‘commencing day means the day the provision in which the term is used commences.’.
- 11 Schedule 1, sections 2(1)(b) and 9(4), ‘written’—**
omit.

University of the Sunshine Coast Act 1998

- 1 Sections 21(1), 25(1)(a) and 26(1)(a), ‘written’—**
omit.
- 2 Sections 25(1) and 26(1), after ‘indictable offence’—**
insert—
‘mentioned in section 23(1)(b) or 24(1)(h)’.
- 3 Part 2, divisions 3A and 3B (as inserted by this Act), and 4—**
renumber as part 2, divisions 4, 5 and 6.
- 4 Part 4, divisions 2 to 5—**
renumber as part 4, divisions 1 to 4.
- 5 Sections 40AA (as inserted by this Act) and 40A—**
renumber as sections 40A and 40B.

Schedule (continued)

6 Part 8, heading—*omit, insert—***‘Part 8 Repeal and transitional provisions****‘Division 1 Repeal provision, and transitional provisions for Act No. 47 of 1998’.****7 Section 68, heading, ‘pt 8’—***omit, insert—***‘div 1’.****8 Section 68, ‘In this part’—***omit, insert—***‘In this division’.****9 Section 68, definition *commencing day*—***omit, insert—***‘*commencing day* means the day the provision in which the term is used commences.’.****10 Schedule 1, sections 2(1)(b) and 9(5), ‘written’—***omit.*