

AGRICULTURAL COLLEGES BILL

EXPLANATORY NOTES

PART 1—PRELIMINARY

Clause 1. Short Title. The short title of the Act is the *Agricultural Colleges Act 1994*.

Clause 2. Commencement. The Act will commence on a day to be fixed by proclamation.

Clause 3. Definitions. This Clause provides the definitions necessary under the Act.

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

“agricultural college” means a college declared under section 4.(1) (Declaration of agricultural colleges), to be an agricultural college;

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

“college” means an agricultural college;

“college board” has the meaning given under section 6 (Board of trustees);

“college hostel” means premises kept by a college board for use as student accommodation;

“member” means a member of a college board;

“official member” means a person who is an official member of a college board under section 13.

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

“State land” means land

- (a) granted in trust, or reversed and set apart for purpose, under the *Land Act 1962*; and

(b) vested in or placed under the control of a college board;

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

Declaration of Agricultural Colleges

Clause 4.(1) This clause applies to a State college that offers now, or in the future, courses about agriculture, pasturage or animal husbandry.

Clause 4.(2) The Minister has the power to declare a State college to be an agricultural college.

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

Clause 5. Sections of the *Vocational Education Training and Employment Act* which do not apply to an agricultural college are:

- section 38 (Powers incidental to maintaining State colleges)
- section 42 (Approved scheme)
- section 43 (Variation of trust purposes)
- section 44 (Amendment of approved scheme)
- section 45 (Requirement for schemes)
- section 46 (Recording schemes in land register)
- section 47 (Rights and jurisdiction in equity not affected)
- section 48 (Disposal of moneys)
- section 52 (Establishment and constitutions of councils)
- section 53 (Functions of State college councils)
- section 54 (Appointment of members to the college council)
- section 55 (Removal of members from the college council)
- section 56 (Chairperson and deputy chairperson of college council)
- section 57 (Vacancy in membership on the college council)
- section 58 (Filling casual vacancies on college council)

PART 2—AGRICULTURAL COLLEGE BOARDS

Division 1—College board establishment and general powers and functions

Board of Trustees

Clause 6.(1) This clause stipulates that there is to be a board of trustees for each college.

Clause 6.(2) This clause specifies that a college board is a corporation with perpetual succession, has a common seal and may sue or be sued in its corporate name.

Clause 6.(3) This clause specifies the corporation's name as the (name of locality) Agricultural College Board.

Clause 6.(4) The Minister has the power to nominate the name of the locality.

Functions of college board

Clause 7.(1) The college board is the college's governing body.

Clause 7.(2) This Act or another Act may confer functions on the college board.

Clause 7.(3) The college board's functions include:

- (a) ensuring that the college provides educational programs of an appropriate standard which relate to the operations of the rural industry; and
- (b) ensuring that the college provides accredited courses of study which are at levels of achievement approved by the Minister; and
- (c) helping the director assess the overall staff and student performance; and
- (d) helping in college operations through board representation—
 - (i) on college committees; and
 - (ii) in proceedings to decide appeals by students against assessment, exclusion or discipline; and

- (e) communicating information to the community about the college; and
- (f) in consultation with any industry training advisory body for rural industry for the area served by the college, encouraging the establishment of local industry advisory committees; and
- (g) monitoring rural industry training needs for the area served by the college.

Powers of college board

Clause 8.(1) This clause stipulates that a college board has all the powers of an individual and may—

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

Clause 8.(2) This clause specifies that a college board has the powers given to it under this or another Act including the power—

- (a) to appoint college staff, including the secretary of the college board; and
- (b) to manage and control the college's affairs and property; and
- (c) to manage and control the college's finances; and
- (d) to decide the college's strategic direction and profile; and
- (e) to develop appropriate curricula for the college in consultation with industry, business and the community; and
- (f) to decide on the physical and resource needs for courses and activities at the college; and

- (g) to identify continuing and emerging rural training needs in rural communities; and
- (h) to review and develop the provision of student services; and
- (i) to provide hostel accommodation for its college students; and
- (j) to make other provision for the college of a kind the chief executive of the department may make for a State college under section 38 of the *Vocational Education, Training and Employment Act 1991*.

Clause 8.(3) Without the Minister's approval, a college board must not—

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

Clause 8.(4) A college board's power extends both within and outside Queensland.

Clause 8.(5) A college board's power may also be exercised outside Australia.

Way college board must act

Clause 9. This clause stipulates that a college board must act in a way that promotes the interests of the college.

College board is subject to direction

Clause 10. A college board must comply with a written direction given by the Minister in relation to policy and the exercise of its functions and powers.

Delegation

Clause 11. This clause allows the college board to delegate its powers to the college director for certain matters, but it does not delegate this power for making college rules nor adopting the college's annual budget.

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

Clause 12. This clause states that a college board is made up of official members and appointed members.

Official members

Clause 13.(1) This clause stipulates that there are 3 official members.

Clause 13.(2) These official members are the college's director, a nominee of the chief executive of the department and the president of the student body which is regarded by the college director as representing the interests of the college's students.

Clause 13.(3) The chief executive's nominee must be at a level at least equivalent to a director of a State college.

Appointed members

Clause 14.(1) This clause stipulates that there are to be 9 appointed members.

Clause 14.(2) These members are to be appointed by the Governor in Council.

Clause 14.(3) This clause stipulates that the appointed members are to be:

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

(e) 3 nominees of the Minister.

Clause 14.(4) The members in 3(a) must be nominees of an entity representing persons engaged in the rural industry in the area served by the college.

Clause 14.(5) The members detailed in subsection 3(a) or 3(e) must have experience in a rural industry carried on in the area served by the college.

Term of appointment

Clause 15. This clause specifies that the term of appointment for college board member is four years.

Failure to nominate

Clause 16.(1) This standard clause permits the Minister to nominate a person or persons in the event of an entity failing to nominate a person or persons in a set period of time.

Clause 16.(2) Such an appointment is to be taken as an entity's nomination.

Clause 16.(3) This clause relates to normal periodic appointments as well as casual vacancies.

Person may act as an appointed member

Clause 17. This clause allows the Governor in Council to appoint a person to act as an appointed member for one who is absent or for one who can not perform the functions of the office.

Vacation of office

Clause 18.(1) If an appointed board member

- (a) dies; or
- (b) ceases to be eligible to become a member of the type concerned;
or

- (c) is absent without the college board's leave and without reasonable excuse from 3 consecutive meetings of the board; or
- (d) resigns from office by a signed notice of resignation given to the Minister;

then such office becomes vacant.

Clause 18.(2) This clause states that a resignation takes effect on the day the Minister receives the resignation or at a later date if such date is specified in the notice of resignation.

Division 3—Chairperson and deputy chairperson

Chairperson

Clause 19.(1) The Governor in Council is to appoint the chairperson from the members of the board.

Clause 19.(2) This clause stipulates that the chairperson must have experience in a rural industry that is part of the college's curricula.

Clause 19.(3) This clause stipulates that the chairperson is the executive member of the college board.

Deputy chairperson

Clause 20.(1) This clause states that the college board members are to elect one of their members as the deputy chairperson whenever there is a vacancy in the office.

Clause 20.(2) The deputy chairperson is to act as the chairperson when there is a vacancy in the office as well as in the absence of the chairperson or for any other reason when the chairperson can not perform the functions of the office.

Division 4—Meetings of college board**Who is to preside at meetings of college board**

Clause 21.(1) This clause contends that the chairperson is to preside at college board meetings.

Clause 21.(2) If the chairperson is absent from a meeting of the college board, the deputy chairperson is to preside at the meeting.

Clause 21.(3) In the event of both the chairperson and deputy chairperson being absent from the college board meeting, or if the offices are vacant, the present members must elect a member to preside at the meeting.

Quorum

Clause 22. A quorum exists if more than half the members are present.

Conduct of meeting

Clause 23. This clause allows college boards to regulate the proceedings of meetings as it sees fit.

Division 5—Other provisions about college board members**Entitlements of college board members**

Clause 24.(1) This clause provides for fees and allowances for board members except for the college director and college staff member.

Clause 24.(2) This clause allows for reimbursement of out-of-pocket expenses incurred by members in performing the functions of office or other expenses approved by the college board.

Training for college board members

Clause 25. This clause provides that the chief executive of the department must ensure that board members receive appropriate training about the exercise of their functions as members of a corporation.

PART 3—THE DIRECTOR**Director**

Clause 26.(1) This clause states that there must be a director of each college.

Clause 26.(2) This clause affirms that the college board appoints the director.

Clause 26.(3) This clause stipulates that the college director is the chief executive officer of the college.

Clause 26.(4) The director is responsible for the day-to-day management of the college subject to the direction of the college board.

Acting Director

Clause 27. Provision is made in this clause for the college board to appoint an acting director in the case of a vacancy in the office, or when the director is absent from the State or when the director can not perform the functions of the office.

PART 4—PROPERTY AND FINANCE

Division 1—Dealing with State land by college board

Application of Land Act 1962

Clause 28.(1) This clause applies the *Land Act 1962* in the case of holding or disposing of State land.

Clause 28.(2) A college board may grant an interest in State land but only by lease.

Clause 28.(3) This clause provides that the lease must—

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

Division 2—Finance

Funds

Clause 29.(1) This clause enables the college board to establish and administer a trust fund, a loan fund, a general fund and a fund prescribed by regulation.

Clause 29.(2) A regulation may specify the purpose for which amounts held in a particular kind of fund may be used.

Trust fund

Clause 30.(1) This clause contends that amounts paid to the board for use by a particular person or purpose are to be paid into the trust fund.

Clause 30.(2) The amount of money paid into a board's trust fund can only be used for the purpose for which it was paid to the board.

Clause 30.(3) This clause provides that tuition fees are not to be paid into the trust fund.

Loan fund

Clause 31.(1) This clause provides that amounts paid to the board by way of loan or subsidy must be paid into the loan fund.

Clause 31.(2) Amounts held in a loan fund can only be used by the board to give effect to the purpose of the loan or subsidy.

General Fund

Clause 32.(1) This clause provides that amounts paid to the college from the Consolidated Fund must be paid into the college's general fund.

Clause 32.(2) Other amounts, such as tuition fees, other charges, revenue from sale of produce or stock, are to be paid into the general fund by the college board.

Clause 32.(3) The general fund is to be used for paying the college's general operating costs.

Other Funds

Clause 33. If another kind of fund, prescribed by regulation, is established, the college board must pay into it, funds paid to the board for that purpose and only use amounts for the fund's purpose.

Financial review

Clause 34.(1) This clause provides for the college board to adopt a budget for the next financial year for the college.

Clause 34.(2) In framing its budget, the college board must comply with the provisions of any resource agreement entered into between the college board and the chief executive of the department.

Clause 34.(3) This clause provides that the college board must control its spending as nearly as possible within the limits of the approved budget.

Division 3—Application of finance Acts

College board is statutory body

Clause 35.(1) This clause affirms that a college board is a statutory body under the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*.

Clause 35.(2) Part 4 (other than section 32) of the *Statutory Bodies Financial Arrangements Act 1982* applies to a college board.

PART 5—COLLEGE RULES

College rules

Clause 36.(1) This clause makes provision for college boards to make college rules.

Clause 36.(2) This clause stipulates that the college board can make rules only about—

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

Clause 36.(3) A college board can not make rules about student fees without the Minister's prior approval.

Clause 36.(4) This clause provides that a rule relating to student discipline can not impose a monetary penalty on the student.

Notification of college rules

Clause 37.(1) This clause provides that notification of a college rule must be either set out in the college rule, or if no such rule exists, then decided by the college board and must take effect on the day of notification or at some other time fixed in the rule.

Clause 37.(2) This clause provides that copies of the rule must be available for purchase or otherwise at a place or places specified in the notice on the day of notification or as soon as possible thereafter.

Clause 37.(3) Failure to comply with the above 37.(2) does not affect the validity of the notification.

PART 6—GENERAL**Driver training**

Clause 38.(1) This clause defines the terms “driver’s licence”, “motor vehicle” and “road” as having the meaning given to them under the *Traffic Act 1949*.

Clause 38.(2) This clause provides that, despite the *Traffic Act 1949*, a student is taken to hold a driver’s licence to drive a motor vehicle on a road or in the college’s grounds, if the student is required to drive a motor vehicle as part of the student’s training at the college.

What happens to assets and liabilities on closure of college

Clause 39.(1) This section applies when a college closes and the college board holds property, other than State land, and has outstanding liabilities.

Clause 39.(2) This clause provides that a regulation may divest property held by the college board from the board and vest it in the Corporation under the *Vocational Education, Training and Employment Act 1991*.

Clause 39.(3) This clause contends that any property held in trust by the college board, is in fact held by the corporation subject to the terms of the trust.

Clause 39.(4) It is stipulated here that a regulation may permit the transfer of the college's outstanding liabilities to the Corporation.

Regulation making power

Clause 40. This clause makes provision for the Governor in Council to make regulations under this Act.

PART 7—REPEAL AND TRANSITIONAL

Definitions

Clause 41. This clause provides that for this Part, “commencing day” means the day on which this Part commences, while “repealed Act” refers to the *Rural Training Schools Act 1965*.

Repeal

Clause 42. This clause provides that the *Rural Training Schools Act 1965* is repealed.

Rural training schools

Clause 43. This clause states that a rural training school in existence immediately before the commencing day is taken to be an agricultural college under this Act.

Existing boards of trustees

Clause 44.(1) This clause provides that each corporation in existence under the repealed Act immediately before the commencing day, is established as a college board under this Act.

Clause 44.(2) This clause changes the name of each corporation by omitting “Rural Training School” and inserting “Agricultural College”.

Clause 44.(3) This clause provides that the establishment of a corporation as a college board, or its change of name, under this Part does not affect the legal personality of the corporation.

Property

Clause 45. This clause provides that property held by a board of trustees for a rural training school under the repealed Act is taken to be held under this Act by the college board for the agricultural college concerned.

Rules

Clause 46. This clause provides that rules in force under the repealed Act continue in force as college rules under this Act for 1 year and may be amended or repealed under this Act.

Staff

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

References to rural training schools etc

Clause 48.(1) This section refers to references in Acts and documents that were in existence on the commencement of this Act.

Clause 48.(2) This clause provides that a reference in an Act or document to a rural training school or a particular rural training school, under the repealed Act is taken to be a reference to an agricultural college, or the agricultural college concerned, under this Act.

Clause 48.(3) This clause provides that a reference in an Act or document to the board of trustees of a rural training school, or a particular board of trustees, under the repealed Act is taken to be a reference to a college board, or the particular college board concerned, under this Act.

Clause 48.(4) References to the *Rural Training Schools Act 1965* will be taken to be a reference to the *Agricultural Colleges Act 1994*.

Transitional regulations

Clause 49.(1) This section states that a regulation may make provision for any matter aiding in the transition from operations of the repealed Act to the operation of this Act whereby this Act does not make provision or cover such operations adequately.

Clause 49.(2) A regulation under subsection (1) of this clause may be given retrospective operation to a date not earlier than the date of assent.

Expiry of Part

Clause 50. This clause provides that, apart from section 48, this part expires 1 year after it commences.