

Queensland



# **JAMES COOK UNIVERSITY ACT 1997**

**Reprinted as in force on 28 April 1998  
(Act not amended up to this date)**

**Reprint No. 1**

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# **Information about this reprint**

This Act is reprinted as at 28 April 1998.

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**See endnotes for information about when provisions commenced.**

Queensland



**JAMES COOK UNIVERSITY ACT 1997**

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# **JAMES COOK UNIVERSITY ACT 1997**

[reprinted as in force on 28 April 1998]

## **An Act about the James Cook University**

### **PART 1—PRELIMINARY**

#### **Short title**

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

#### **Commencement**

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

#### **Definitions**

3. The dictionary in schedule 2 defines particular words used in this Act<sup>1</sup>.

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<sup>1</sup> In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954* section 14. Words defined elsewhere in this Act are generally signposted in the dictionary. However, if a section has a definition that only applies to the section, or a part of the section, it is generally not signposted. If this type of definition is set out in a separate subsection, the subsection is generally the last subsection of the section.

The signpost definitions in the dictionary alert the reader to the terms defined elsewhere in the Act and tell the reader where these definitions can be found. For example, the definition ‘**“designated purpose”** see section 42’, tells the reader there is a definition of the term “designated purpose” in section 42.

## **PART 2—THE UNIVERSITY AND ITS COUNCIL**

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

#### **Establishment of university**

- 4.(1)** The James Cook University is established.
- (2)** The university—
- (a) is a body corporate; and
  - (b) has a seal; and
  - (c) may sue and be sued in its corporate name.

#### **Functions of university**

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

**General powers of university**

**6.(1)** The university has all the powers of an individual, and may, for example—

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

**(2)** Without limiting subsection (1), the university has the powers given to it under this or another Act.

**(3)** The university may exercise its powers inside or outside Queensland.

**(4)** Without limiting subsection (3), the university may exercise its powers outside Australia.

***Division 2—Council establishment and general functions and powers*****Establishment of council**

**7.** There is a council of the university.

**Functions of council**

**8.(1)** The council is the university's governing body.

**(2)** The council has the functions conferred on it under this or another Act.

**Powers of council**

**9.(1)** The council may do anything necessary or convenient to be done for, or in connection with, its functions.

(2) Without limiting subsection (1), the council has the powers given to it under this or another Act and, in particular—

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

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

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

### **Delegation**

11.(1) The council may delegate its powers under this Act to—

- (a) an appropriately qualified member of the council; or
- (b) a committee consisting of appropriately qualified persons, but which must include 1 or more members of the council; or
- (c) an appropriately qualified member of the university's staff.

(2) However, the council may not delegate its power—

- (a) to make university statutes or rules; or
- (b) to adopt the university's annual budget; or
- (c) to approve spending of funds available to the university by way of bequest, donation or special grant.

### ***Division 3—Council membership***

#### **Membership of council**

12.(1) The council consists of official members, appointed members and elected members.

(2) The council may also include additional members.

**Official members**

**13.(1)** There are 6 official members.

**(2)** The official members are—

- (a) the chancellor; and
- (b) the vice-chancellor; and
- (c) the chief executive of the department or the chief executive's nominee; and
- (d) the chairperson of the academic board; and
- (e) the president of the staff association; and
- (f) the president of the union.

**(3)** However, the president of the staff association is an official member only if elected to the office of president by a ballot at which all the members of the association may vote.

**(4)** Also, the president of the union is an official member only if elected to the office of president by a ballot at which all the members of the union may vote.

**Appointed members**

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

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

**Elected members**

**15.(1)** There are 10 elected members.

**(2)** The elected members are—

- (a) 3 members of the academic staff; and
- (b) 2 members of the full-time general staff; and
- (c) 2 students; and
- (d) 3 members of the convocation (other than persons eligible for membership under paragraph (a), (b) or (c)).

- (3)** Each elected member is to be elected by a ballot at which—
- (a) for an elected member mentioned in subsection (2)(a)—all the members of the academic staff may vote; or
  - (b) for an elected member mentioned in subsection (2)(b)—all the members of the full-time general staff may vote; or
  - (c) for an elected member mentioned in subsection (2)(c)—all the students may vote; or
  - (d) for an elected member mentioned in subsection (2)(d)—all the members of the convocation may vote.
- (4)** Despite subsection (3)—
- (a) the council may authorise the council of the union to appoint the members mentioned in subsection (2)(c) at a meeting of the council of the union; and
  - (b) the council may authorise the convocation to appoint the members mentioned in subsection (2)(d) at a meeting of the convocation at which a quorum is present.

### **Additional members**

- 16.(1)** There may be 2 additional members.
- (2)** The council may appoint the additional members.
- (3)** An additional member must not be—
- (a) a member of the academic or full-time general staff; or
  - (b) a student.

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

**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.

**Appointed member's term of office**

**18.** An appointed member is to be appointed for a term of not more than 3 years.

**Elected member's term of office**

**19.(1)** An elected member holds office for 3 years.

**(2)** An elected member's term of office starts—

- (a)** if the member is re-elected or reappointed—the day after the day when the member's previous term of office ends; or
- (b)** if paragraph (a) does not apply—the day after the day when the term of office of the member's predecessor ends.

**Additional member's term of office**

**20.** The appointment of an additional member is to be for a term of not more than 3 years decided by the council.

**Failure to elect or appoint elected members**

**21.(1)** If an entity permitted to elect or appoint elected members does not elect or appoint any or enough persons as elected members by a day fixed by the council by written 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.<sup>2</sup>

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

**(3)** This section applies to the periodic election or appointment of members and an election or appointment required because of a casual vacancy.

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<sup>2</sup> Section 15 (Elected members)

**Casual vacancies**

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

**Ineligibility for membership of council**

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

- (a) the person is bankrupt or is taking advantage of the laws in force about bankruptcy; or
- (b) the person has been found guilty of an indictable offence.

**(2)** Subsection (1) has effect subject to sections 25 and 26.<sup>3</sup>

**Vacation of office**

**24.(1)** The office of an elected, appointed or additional member becomes vacant if—

- (a) the member dies; or
- (b) for an elected or additional member—the member ceases to be an eligible person for the entity that elected or appointed the person; or
- (c) the member is absent without the council's leave and without reasonable excuse from every meeting of the council in a period of 6 months; or
- (d) the member becomes an official member; or
- (e) the member resigns from office by signed notice—
  - (i) if the member is an appointed member—given to the Minister; or
  - (ii) if the member is an elected or additional member—given to

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<sup>3</sup> Sections 25 (Discretion where appointed member convicted of indictable offence) and 26 (Discretion where elected or additional member convicted of indictable offence)



the vice-chancellor; or

(f) the person becomes bankrupt or takes advantage of the laws in force about bankruptcy; or

(g) the person is convicted of an indictable offence.

(2) Subsection (1) has effect subject to sections 25 and 26.

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

(4) In this section—

“**eligible person**”, for an entity, means a person whom the entity may elect or appoint as a member.

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

**25.(1)** If the Minister considers it would be reasonable, having regard to the circumstances of the indictable offence of which a person has been convicted, the Minister may—

(a) if the person was an appointed member when convicted—give written notice to the chancellor and the person that the person is restored as an appointed member, and may be subsequently reappointed, despite the conviction; or

(b) otherwise—give written approval for the person to become an appointed member despite the conviction.

(2) On the day the chancellor receives a notice under subsection (1)(a)—

(a) the person is restored as an appointed member; and

(b) if another person has been appointed to fill the vacancy, the other person’s appointment ends.

(3) If a person is restored as an appointed member under subsection (2), the person’s term of office as a member ends when it would have ended if the person had not been convicted of the offence.

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

**26.(1)** If the council considers it would be reasonable, having regard to the circumstances of the indictable offence of which a person has been convicted, the council may—

- (a) if the person was an elected or additional member when convicted—give written notice to the person that the person is restored as an elected or additional member, and may be subsequently re-elected or reappointed, despite the conviction; or
- (b) otherwise—give written approval for the person to become an elected or additional member despite the conviction.

**(2)** On the day the person receives a notice under subsection (1)(a)—

- (a) the person is restored as an elected or additional member; and
- (b) if another person has been elected or appointed to fill the vacancy, the other person's membership of the council ends.

**(3)** If a person is restored as an elected or additional member under subsection (2), the person's term of office as a member ends when it would have ended if the person had not been convicted of the offence.

***Division 4—Meetings of the council*****Who is to preside at meetings**

**27.(1)** The chancellor must preside at meetings of the council.

**(2)** However, if the chancellor and deputy chancellor are both absent from a meeting of the council or the offices are vacant, the members present must elect a member to preside at the meeting.

**Quorum**

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

**Conduct of meetings**

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

**PART 3—CERTAIN OFFICERS OF THE  
UNIVERSITY****Chancellor**

30.(1) There is a chancellor of the university.

(2) The council must elect a chancellor whenever there is a vacancy in the office.

(3) The person elected need not be a member.

(4) The chancellor holds office for the term, not longer than 5 years, fixed by the council.

**Deputy chancellor**

31.(1) There is a deputy chancellor of the university.

(2) The council must elect a member as deputy chancellor whenever there is a vacancy in the office.

(3) The deputy chancellor holds office for the term, not longer than 3 years, fixed by the council.

(4) The deputy chancellor is to act as chancellor—

- (a) when there is a vacancy in the office of chancellor; and
- (b) while the chancellor is absent from the State or, for another reason, cannot perform the functions of the office.

**Vice-chancellor**

32.(1) There is a vice-chancellor of the university.

(2) The council must appoint a vice-chancellor whenever there is a vacancy in the office.

(3) The terms of appointment are as decided by the council.

(4) The vice-chancellor is the chief executive officer of the university and may exercise the powers and perform the functions conferred on the vice-chancellor by this or another Act or the council.

(5) The vice-chancellor may delegate powers of the vice-chancellor under this or another Act to an appropriately qualified member of the university's staff.

## **PART 4—BODIES CONNECTED WITH THE UNIVERSITY**

### *Division 1—Convocation*

#### **Establishment of convocation**

**33.(1)** A convocation of the university is established.

(2) The council is to decide the membership of the convocation by university statute.

(3) The council is to decide—

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

***Division 2—Union*****Establishment of union**

**34.(1)** The James Cook University Union is established.

**(2)** The union—

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

**Composition**

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

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

**Role**

**36.(1)** The union has the role and powers stated in its constitution.

**(2)** The union also has the role and powers decided by the council.

**(3)** However, the union is not the employee or agent of the council.

**General powers**

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

**Constitution**

**38.(1)** The union must have a written constitution.

**(2)** The union's constitution, and each amendment of the constitution, must be submitted to the council for its approval.

(3) The constitution or amendment has no effect until approved by the council.

### *Division 3—Colleges*

#### **Establishment of colleges**

**39.(1)** The council may establish colleges of the university by university statute.

(2) The Governor in Council must approve the establishment of the college before the council makes the university statute establishing it.

(3) The council may establish an advisory council for each college and decide its membership and functions.

(4) On the establishment of a college, property vested in or acquired by a person on trust for the college vests in the university on trust for the college.

(5) The council must manage and supervise the college and property held on trust by the university for the college.

### *Division 4—Academic board*

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

**40.(1)** The council may establish an academic board of the university.

(2) The council is to determine the membership of the academic board.

(3) The academic board is to—

- (a) advise the council about teaching, scholarship and research matters concerning the university; and
- (b) formulate proposals for the academic policies of the university; and
- (c) monitor the academic activities of the university's faculties; and
- (d) promote and encourage scholarship and research at the university.

## **PART 5—PROPERTY AND FINANCE**

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

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

**41.** In this division—

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

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

**42.(1)** This section applies if—

- (a) property is held by the university on terms requiring the property to be used for a particular purpose (the “**donor’s purpose**”); and
- (b) the council is satisfied—
  - (i) the donor’s purpose—
    - (A) has been wholly or substantially achieved; or
    - (B) no longer exists; or
    - (C) has been adequately provided for in another way; or
    - (D) is uncertain, cannot be identified, or is insufficiently defined; or
    - (E) becomes impossible, impractical or inexpedient to carry out; or
  - (ii) the property is inadequate for the donor’s purpose.

**(2)** The council may set up and maintain a scheme for the use of the property for another purpose (the “**designated purpose**”).

**(3)** The scheme must be in writing.

**(4)** The university must without charge give a copy of the scheme to anyone who asks for it.

**Selection of designated purpose**

**43.(1)** In selecting the designated purpose, the council must prefer a purpose that—

- (a) is as nearly similar as practicable to the donor's purpose; and
- (b) can practically and conveniently be achieved.

**(2)** However, the scheme is not invalid merely because another designated purpose may have been more properly selected under subsection (1).

**Property to be held for designated purpose**

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

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

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

**Amendment of scheme**

**46.(1)** The council may amend the scheme.

**(2)** Sections 42 to 45 apply to the amendment of a scheme as if a reference to the donor's purpose is a reference to the designated purpose of the scheme that is to be amended.

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

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

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

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



***Division 2—Dealing with State land by council*****Application of Land Act 1994**

**49.(1)** State land is held and may be disposed of under the *Land Act 1994*.

**(2)** However, the university may grant an interest in State land only by way of lease.

**(3)** Also, the lease must not be for more than 25 years.

***Division 3—Finance*****University is statutory body under the Financial Administration and Audit Act 1977**

**50.** To remove any doubt, it is declared that the university is a statutory body under the *Financial Administration and Audit Act 1977*.

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

**51.(1)** Under the *Statutory Bodies Financial Arrangements Act 1982*, the university is a statutory body.

**(2)** The *Statutory Bodies Financial Arrangements Act 1982*, part 2B<sup>4</sup> sets out the way in which the university's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

**Trust funds**

**52.** The university may establish or administer trust funds.

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<sup>4</sup> *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

**Investment common fund**

**53.(1)** The university may establish an investment common fund for the collective investment of trust funds or other amounts held by it.

(2) The university may add amounts to or withdraw amounts from the investment common fund, without incurring any liability for breach of trust.

(3) The university must periodically distribute the income of the investment common fund among each of the funds forming the investment common fund (a “**component fund**”) having regard to the share of each component fund in the investment common fund.

(4) Despite subsection (3), if a component fund consists of an amount received for use for a stated purpose and the amount cannot or will not be used for the purpose immediately, income attributable to the share of the amount in the investment common fund may be paid into the general funds of the university if the income is not needed immediately for the stated purpose.

(5) Also, despite subsection (3), the university may—

- (a) add a part of the income of the investment common fund to the fund’s capital; or
- (b) use a part of the income to establish or augment another fund to make provision against capital depreciation or reduction of income.

**Application of revenue**

**54.(1)** Subject to the terms of a relevant trust, amounts received by the university from any source are to be applied solely to university purposes.

(2) To remove any doubt, each of the following purposes is a university purpose—

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

**Financial review**

**55.(1)** The council must, in each year, adopt a budget for the university for the next year.

**(2)** In framing the budget the council need not take account of amounts mentioned in subsection (4).

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

**(4)** The council must undertake an annual review of—

- (a) amounts available, or expected to be available, to the university by way of bequest, donation or special grant; and
- (b) the spending of the amounts.

**University's financial year**

**56.** The university's financial year is a calendar year.

**PART 6—UNIVERSITY STATUTES****Making of university statutes**

**57.(1)** The council may make university statutes.

**(2)** A university statute may only be made about the following matters—

- (a) the admission of students;
- (b) the disciplining of students;
- (c) the fees to be paid—
  - (i) for examinations; or
  - (ii) for attendance at lectures and classes of the university; or
  - (iii) for the use of the university's facilities;
- (d) the membership of convocation;
- (e) the conduct of a ballot for the election of elected members;

- (f) the establishment of colleges;
  - (g) the ownership and exploitation of intellectual property brought into existence by the university's staff or as a result of using the university's facilities;
  - (h) making and notifying university rules;
  - (i) a direction, indication or requirement for a regulatory notice.
- (3) Without limiting subsection (2)(b), a university statute may—
- (a) authorise the council to impose a penalty of not more than 10 penalty units for a breach of a university statute about the discipline of students; and
  - (b) provide for its recovery and enforcement.

### **University statute's status**

**58.** A university statute—

- (a) is subordinate legislation; and
- (b) is an exempt instrument under the *Legislative Standards Act 1992*.

### **University statutes affecting union**

**59.(1)** A university statute affecting the union's role or powers may be made only if the council—

- (a) has given the union a copy of the proposed statute at least 28 days before making it; and
- (b) has considered any comments given to it by the union under subsection (2).

(2) The union may give the council written comments about the proposed university statute within 14 days after receiving the copy.

(3) The council may amend the proposed university statute to take account of any of the comments.

(4) If the council amends the proposed university statute to take account

of any of the comments, it does not have to give the union a copy of the proposed statute before making it.

### **University rules**

**60.(1)** The council may make university rules under a university statute.

**(2)** If a university rule is inconsistent with this Act or a university statute, the rule is invalid to the extent of the inconsistency.

**(3)** A university rule—

- (a)** must be notified in the way required by university statute; and
- (b)** takes effect on the day of its notification or, if a later day or time is fixed in the rule, on the day or at the time fixed.

**(4)** On the day a university rule is notified under subsection (3)(a) or as soon as practicable after that day, copies of the rule must be available to be obtained (by purchase or otherwise) at the place, or at each of the places, stated in the notice.

**(5)** Failure to comply with subsection (4) does not affect the validity of the notification under subsection (3)(a).

## **PART 7—MISCELLANEOUS**

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

**61.(1)** The university may be a member of, form, take part in forming or manage a corporation whose objects include the following—

- (a)** making available facilities for study, research or education;
- (b)** providing teaching, research, development, consultancy or other services for public or private entities;
- (c)** helping or engaging in the development or promotion of the university's research or the application or use of the results of the research;
- (d)** preparing, publishing, distributing or licensing the use of literary

or artistic work, audio or audiovisual material or computer software;

- (e) exploiting commercially a facility or resource of the university, including, for example, study, research or knowledge, or the practical application of study, research or knowledge, developed by or belonging to the university, whether alone or with someone else;
- (f) seeking or encouraging gifts to the university or for the university's purposes;
- (g) another object, consistent with this Act, that the council considers is appropriate in the circumstances.

(2) The university, or a corporation managed by the university or of which the university is a member, may enter into an agreement or arrangement with a corporation whose objects include an object mentioned in subsection (1) for achieving the object.

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

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

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

**63.** Schedule 1 has effect.

### **Regulation-making power**

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

### **Repealed Act references**

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

## PART 8—REPEAL AND TRANSITIONAL

### Definitions for pt 8

66. In this part—

“**appointed member**” means an appointed member, under the repealed Act, of the council of the former university.

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

“**continuing corporation**”, for a former corporation, means—

- (a) if the former corporation is the former university—the university;  
or
- (b) if the former corporation is the former union—the union.

“**ex-officio member**” means an ex-officio member, under the repealed Act, of the council of the former university.

“**former corporation**” means the former union or university.

“**former union**” means the union established under the repealed Act.

“**former university**” means the university established under the repealed Act.

“**repealed Act**” means the *James Cook University of North Queensland Act 1970*.

### Repeal

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

### Continuation of university and union

68.(1) The former university is continued as the university established under section 4.

(2) The former union is continued as the union established under section 34.

**Assets, liabilities and contracts**

**69.(1)** On the commencing day—

- (a) the assets and liabilities of a former corporation vest in the continuing corporation for the former corporation; and
- (b) any property that, immediately before the commencing day, was held in trust by a former corporation vests in the continuing corporation for the former corporation on the same trusts to which the property was subject immediately before the vesting.

**(2)** Any contracts entered into by or on behalf of a former corporation and all guarantees, undertakings and securities given by or on behalf of or to a former corporation, in force immediately before the commencing day are taken to have been entered into or given by or to the continuing corporation for the former corporation and may be enforced against or by the continuing corporation accordingly.

**Proceedings**

**70.** A proceeding that could have been started or continued by or against a former corporation before the commencing day may be started or continued by or against the continuing corporation for the former corporation.

**Offices held under repealed Act**

**71.** A person holding office as the chancellor, deputy chancellor or vice-chancellor under the repealed Act immediately before the commencing day holds office for the balance of the person's term of office.

***Membership of council***

**72.(1)** *The council of the university consists of the ex officio and appointed members holding office immediately before the commencing day.*

**(2)** *An appointed member holds office as a member of the council until<sup>5</sup>*

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<sup>5</sup> This provision has expired and is included in this reprint for informational purposes only. It will be omitted in the next reprint.



*the end of the member's term of office or earlier vacating office.*

*(3) For subsections (1) and (2), part 2, division 2 (other than sections 5 and 14 to 17) of the repealed Act, and any definitions relevant to the provisions, continue to have effect.<sup>6</sup>*

*(4) This section has effect despite the repeal of the repealed Act.*

*(5) This section expires on 12 April 1998.<sup>7</sup>*

### **Staff's rights and entitlements**

**73.(1)** This section applies to a person who immediately before the commencing day was a staff member of a former corporation.

**(2)** On the commencing day, the person is taken to be employed by the continuing corporation for the former corporation on the same conditions on which the person was employed by the former corporation.

**(3)** In addition, the person—

- (a)** retains all rights accrued or accruing to the person as a staff member of the former corporation; and
- (b)** is entitled to receive long service, recreation and sick leave and any similar entitlements accrued or accruing to the person as a staff member of the former corporation.

**(4)** Also, the person—

- (a)** retains all entitlements accrued or accruing to the person as a contributor to a fund or as a member of a superannuation scheme under the *Superannuation (State Public Sector) Act 1990*; and
- (b)** is taken to continue to be a contributor or member under the *Superannuation (State Public Sector) Act 1990*.

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<sup>6</sup> *The provisions of part 2, division 2 of the repealed Act mentioned in the subsection deal with the constitution of, vacancies of members of, and certain office holders on, the council.*

<sup>7</sup> This provision has expired and is included in this reprint for informational purposes only. It will be omitted in the next reprint.

**University statutes and rules**

**74.(1)** An existing instrument (to the extent that it is consistent with this Act) continues in force under this Act.

**(2)** However, the instrument expires 1 year after the commencing day, unless sooner repealed.

**(3)** In this section—

**“existing instrument”** means a university statute or rule made under the repealed Act and in force immediately before the commencing day.

**Convocation**

**75.** The convocation established under the repealed Act and in existence immediately before the commencing day is taken to be the convocation established under this Act.

**Union’s constitution**

**76.** The former union’s constitution in force immediately before the commencing day continues in force as the union’s constitution under this Act.

**References to former union or university**

**77.** A reference in an Act or document in existence immediately before the commencing day to a former corporation is a reference to the continuing corporation for the former corporation.

**Expiry**

**78.** This part (other than sections 67 and 72) expires 1 year after it commences.

## **SCHEDULE 1**

### **CONTROL OF TRAFFIC AND CONDUCT ON UNIVERSITY LAND**

section 63

#### **PART 1—AUTHORISED PERSONS AND SECURITY OFFICERS**

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

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

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

**(3)** A person may be appointed both an authorised person and a security officer.

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

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

**(2)** An authorised person or security officer—

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

## SCHEDULE 1 (continued)

**Identity cards**

**3.(1)** The vice-chancellor must issue an identity card to each authorised person and security officer.

**(2)** The identity card must—

- (a) contain a recent photograph of the authorised person or security officer; and
- (b) be in a form approved by the vice-chancellor; and
- (c) be signed by the authorised person or security officer.

**(3)** A person who ceases to be an authorised person or security officer must, as soon as practicable, return the person's identity card to the vice-chancellor, unless the person has a reasonable excuse for not returning it.

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

**Proof of authority**

**4.(1)** An authorised person or security officer may exercise a power under this Act in relation to someone else only if the authorised person or security officer—

- (a) first produces his or her identity card for inspection by the other person; or
- (b) has his or her identity card displayed so that it is clearly visible.

**(2)** If, for any reason, it is not practicable to comply with subsection (1), the authorised person or security officer must produce the identity card for inspection by the person at the first reasonable opportunity.

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

## SCHEDULE 1 (continued)

**PART 2—TRAFFIC CONTROL****Persons authorised to control traffic on university's land**

**5.(1)** An authorised person may control traffic on the university's land and, for this purpose, may give directions to persons on the land.

**(2)** A person must not fail to comply with a direction given under subsection (1), unless the person has a reasonable excuse for not complying with it.

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

**Regulatory notice**

**6.(1)** The university may erect or display at or near any vehicular entrance to the university's land, a notice (a "**regulatory notice**") regulating the driving, parking or standing of vehicles on the land, including, for example—

- (a) fixing a maximum speed limit; or
- (b) indicating a pedestrian crossing; or
- (c) indicating a place where the driving, parking or standing of a vehicle is restricted or prohibited.

**(2)** A person on the university's land must comply with a regulatory notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

**(3)** A regulatory notice—

- (a) must state the limits of the area to which the notice applies; and
- (b) may state that a contravention of a requirement of the notice is an offence against the Act and the penalty for the offence.

**(4)** Without limiting subsection (1), the university may erect and display regulatory notices in the form of official traffic signs.

**(5)** Evidence that a regulatory notice was erected or displayed at a place mentioned in subsection (1) is evidence that the notice was erected or

## SCHEDULE 1 (continued)

displayed by the university.

(6) A regulatory notice erected or displayed under this section must be easily visible to passers by.

**Information notices**

7.(1) This section applies if a regulatory notice does not state that a contravention of a requirement of the notice is an offence against this Act and the penalty for the offence.

(2) The university must erect or display at or near each vehicular entrance to the university's land to which the regulatory notice relates, and other places the vice-chancellor considers appropriate, information notices stating that a contravention of a requirement of a regulatory notice is an offence and the penalty for the offence.

(3) An information notice may contain any other information the vice-chancellor considers appropriate.

(4) An information notice erected or displayed under this section must be easily visible to passers by.

(5) In this section—

“**regulatory notice**” does not include an official traffic sign.

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

8.(1) An authorised person may seize, remove and hold, a vehicle that the authorised person believes on reasonable grounds—

- (a) is parked in contravention of a regulatory notice; or
- (b) is abandoned.

(2) The vehicle must be held at a safe place.

(3) An authorised person may exercise the powers given under subsection (1)(a) only if—

- (a) the authorised person believes on reasonable grounds that it is necessary or desirable to seize and remove the vehicle having

## SCHEDULE 1 (continued)

regard to the safety and convenience of traffic on the university's land; and

- (b) the authorised person—
  - (i) cannot immediately locate the driver of the vehicle; or
  - (ii) believes on reasonable grounds that the driver of the vehicle is not willing or able to remove the vehicle immediately.

(4) As soon as is practicable and no later than 14 days after the vehicle is seized, the university must give to the owner of the vehicle a written notice stating how the owner may recover the vehicle.

(5) If the owner cannot be ascertained or located within 14 days after the vehicle is seized, the notice may be given by publishing it in a newspaper circulating generally in the State.

(6) If the vehicle was parked in contravention of a regulatory notice, the owner of the vehicle must pay to the university the cost of seizing, removing, holding and returning the vehicle.

(7) In this section—

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

**Disposal of unclaimed vehicles**

9.(1) This section applies if the owner of a seized vehicle does not recover the vehicle within 2 months after notice is given to the owner under section 8(4) or (5).

(2) After publishing a notice in a newspaper circulating generally in the State, the university may sell the vehicle by public auction.

(3) The notice must—

- (a) identify the vehicle; and
- (b) state that the vehicle is to be sold by auction; and
- (c) state how the owner may recover the vehicle before the auction; and

## SCHEDULE 1 (continued)

(d) state the time and place of the auction.

(4) Compensation is not recoverable against the university for the sale of a vehicle under this section.

(5) In this section—

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

**Application of proceeds of sale**

**10.(1)** The proceeds of the sale must be applied in the following order—

- (a) in payment of the reasonable expenses incurred in the sale;
- (b) in payment of the reasonable cost of seizing, removing and holding the vehicle;
- (c) in payment of any balance to the owner.

(2) Compensation is not recoverable against the university for a payment under this section.

**PART 3—CONDUCT ON UNIVERSITY LAND****Conduct causing a public nuisance**

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

Maximum penalty—20 penalty units.

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

**12.(1)** This section applies if a security officer—

- (a) finds a person contravening section 11; or
- (b) finds a person in circumstances that leads the security officer to



## SCHEDULE 1 (continued)

suspect on reasonable grounds that the person has just contravened section 11; or

- (c) has information that leads the security officer to suspect on reasonable grounds that a person has just contravened section 11; or
- (d) reasonably believes, having regard to the way a person is behaving, that the person's presence may pose a threat to the safety of someone else on, entering or leaving the land; or
- (e) has information that leads the security officer to believe, on reasonable grounds, that a person's presence may pose a threat to the safety of someone else on, entering or leaving the land; or
- (f) reasonably believes that a person is on the land without lawful justification or excuse.

(2) The security officer may direct the person to leave the university's land or a part of the university's land.

(3) A person must comply with a direction given to the person under subsection (2), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

## SCHEDULE 2

### DICTIONARY

section 3

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

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

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

**“additional member”** means a member of the council appointed under section 16.

**“appointed member”** means a member of the council appointed under section 14.

**“appropriately qualified”**, for a delegate for a power, includes having the qualifications, experience or standing appropriate to exercise the power.

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

**“chancellor”** means the chancellor of the university.

**“college”** includes a university institution.

**“convocation”** means the convocation of the university.

**“council”** means the council of the university.

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

**“designated purpose”** see section 42.

**“donor’s purpose”** see section 42.

**“elected member”** means a member of the council elected or appointed under section 15.

## SCHEDULE 2 (continued)

“**general staff**” means staff, other than academic staff, of the university.

“**higher education award**” has the meaning given by the *Higher Education (General Provisions) Act 1993*.

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

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

“**official member**” means a person who is an official member of the council under section 13.

“**official traffic sign**” has the meaning given by the *Traffic Act 1949*.

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

- (a) the *Transport Infrastructure (Roads) Act 1991*; or
- (b) the corresponding law of another State or a Territory.

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

“**requirement**”, of a regulatory notice, includes—

- (a) a direction on a regulatory notice; and
- (b) a direction, indication or requirement, declared by university statute as being a requirement of the notice.

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

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

“**State land**” means land—

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

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

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

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

## SCHEDULE 2 (continued)

**“university rules”** means university rules made under section 60.

**“university statute”** means a university statute made under section 57.

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

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

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the James Cook University Act 1997 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## **4 List of legislation**

### **James Cook University Act 1997 No. 45**

date of assent 29 August 1997

ss 1–2 commenced on date of assent

ss 12–27, 30–32 commenced 13 April 1998 (1997 SL No. 465)

remaining provisions commenced 1 January 1998 (1997 SL No. 465)

## **5 List of annotations**

### **Definitions for pt 8**

s 66 exp 1 January 1999 (see s 78)

### **Continuation of university and union**

s 68 exp 1 January 1999 (see s 78)

### **Assets, liabilities and contracts**

s 69 exp 1 January 1999 (see s 78)

### **Proceedings**

s 70 exp 1 January 1999 (see s 78)

### **Offices held under repealed Act**

s 71 exp 1 January 1999 (see s 78)

### **Membership of council**

s 72 exp 12 April 1998 (see s 72(5))

### **Staff's rights and entitlements**

s 73 exp 1 January 1999 (see s 78)

### **University statutes and rules**

s 74 exp 1 January 1999 (see s 78)

### **Convocation**

s 75 exp 1 January 1999 (see s 78)

### **Union's constitution**

s 76 exp 1 January 1999 (see s 78)

### **References to former union or university**

s 77 exp 1 January 1999 (see s 78)

### **Expiry**

s 78 exp 1 January 1999 (see s 78)