

Queensland



JAMES COOK UNIVERSITY ACT 1997

**Reprinted as in force on 13 December 2002
(includes amendments up to Act No. 75 of 2002)**

Reprint No. 2

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Information about this reprint

This Act is reprinted as at 13 December 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

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Queensland



JAMES COOK UNIVERSITY ACT 1997

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JAMES COOK UNIVERSITY ACT 1997

[as amended by all amendments that commenced on or before 13 December 2002]

An Act about the James Cook University

PART 1—PRELIMINARY

1 Short title

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

2 Commencement

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

3 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

PART 2—THE UNIVERSITY AND ITS COUNCIL

Division 1—University establishment and general functions and powers

4 Establishment of university

(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.

5 Functions of university

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
- (ea) to disseminate knowledge and promote scholarship; and
- (eb) to provide facilities and resources for the wellbeing of the university's staff, students and other persons undertaking courses at the university; 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.

6 General powers of university

(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

7 Establishment of council

There is a council of the university.

8 Functions of council

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

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

9 Powers of council

(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.

10 Council to promote university's interests

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

11 Delegation

- (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**12 Membership of council**

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

(2) The council may also include additional members.

13 Official members

- (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.

14 Appointed members

- (1) There are 9 appointed members.
- (2) The Governor in Council is to appoint the appointed members.

15 Elected members

- (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.

16 Additional members

- (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.

17 When council is taken to be properly constituted

The council is taken to be properly constituted when it has 15 or more members, whether they be additional, appointed, elected or official members.

18 Appointed member's term of office

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

19 Elected member's term of office

- (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.

20 Additional member's term of office

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

20A Dealing with casual vacancy in office of an elected member

(1) This section applies if a casual vacancy arises in the office of an elected member.

(2) If the elected member was elected by a ballot under section 15(3), the council must appoint to the office the one person, if any, who—

- (a) was a candidate for the office in the ballot; and
- (b) was not elected; and
- (c) received the highest number of votes of all the candidates who were not elected; and
- (d) is eligible, under this Act, to be a member; and
- (e) is willing to be, and available to perform the functions of, a member.

(3) Subsection (4) applies if—

- (a) the elected member was not elected by a ballot; or
- (b) no-one is eligible for appointment under subsection (2).

(4) A person is to be elected to the office by a ballot under section 15(3).

(5) Despite subsection (4)—

- (a) if the elected member was a student—the council may authorise the council of the union to appoint a student to the office at a meeting of the council of the union; and
- (b) if the elected member was a member of the convocation—the council may authorise the convocation to appoint a member of the convocation to the office at a meeting of the convocation at which a quorum is present.

(6) A person appointed under subsection (2) or (5) is taken to have been elected under section 15.

(7) In this section—

“**member of the convocation**” does not include a member of the convocation who is eligible for membership of the council under section 15(2)(a), (b) or (c).

21 Failure to elect or appoint elected members

(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.

(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 or appointed by the entity under section 15.

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

(5) In this section—

“**entity**” does not include the council.

22 Casual vacancies

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

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 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.

24 Vacation of office

(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 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.

25 Discretion where appointed member convicted of indictable offence

(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.

26 Discretion where elected or additional member convicted of indictable offence

(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

27 Who is to preside at meetings

(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.

28 Quorum

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

29 Conduct of meetings

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

PART 3—CERTAIN OFFICERS OF THE UNIVERSITY

30 Chancellor

(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.

31 Deputy chancellor

- (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, can not perform the functions of the office.

32 Vice-chancellor

- (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***33 Establishment of convocation**

- (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

34 Establishment of union

(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.

35 Composition

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.

36 Role

(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.

37 General powers

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.

38 Constitution

(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***39 Establishment of colleges**

(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***40 Establishment of academic board**

(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.

Division 5—Application of Corporations legislation to bodies

40A Excluded matters for Corporations legislation

(1) Each of the following is declared to be an excluded matter for the Corporations Act, section 5F,¹ in relation to parts 5.7 and 5.7B² of that Act—

- (a) the convocation;
- (b) a college established under section 39;
- (c) the academic board.

(2) The union is declared to be an excluded matter for the Corporations Act, section 5F, in relation to the provisions of that Act³ for which a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982* is declared to be an excluded matter under section 13A of that Act.

1 Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)

2 Corporations Act, parts 5.7 (Winding up bodies other than companies) and 5.7B (Recovering property or compensation for the benefit of creditors of insolvent company)

3 Corporations Act, part 2D.1 (Duties and powers), part 2D.6 (Disqualification from managing corporations), chapter 2K (Charges), chapter 2L (Debentures), part 5.7 (Winding up bodies other than companies), part 5.7B (Recovering property or compensation for the benefit of creditors of insolvent company), part 5.9 (Miscellaneous) and part 5B.2 (Registrable bodies)

PART 5—PROPERTY AND FINANCE

Division 1—Property held on trust or conditions

41 Definition for div 1

In this division—

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

42 Amendment of terms of trusts and gifts

(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, can not 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.

43 Selection of designated purpose

(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).

44 Property to be held for designated purpose

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.

45 Certain persons to be given notice of scheme

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.

46 Amendment of scheme

(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.

47 University's powers under other laws not limited

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

48 University may carry out conditions of gift etc.

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**49 Application of Land Act 1994**

(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**50 University is statutory body under the Financial Administration and Audit Act 1977**

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

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

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

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B⁴ sets out the way in which the university's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

52 Trust funds

The university may establish or administer trust funds.

53 Investment common fund

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

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

(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 can not 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.

54 Application of revenue

(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.

55 Financial review

(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.

56 University's financial year

The university's financial year is a calendar year.

PART 6—UNIVERSITY STATUTES

57 Making of university statutes

(1) The council may make university statutes.

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

- (a) the admission and enrolment of students;
- (aa) the entitlement to degrees and other awards;
- (b) the disciplining of students and other persons taking courses at the university;
- (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 disciplining of persons mentioned in subsection (2)(b); and
 - (b) provide for its recovery and enforcement.

58 University statute's status

A university statute—

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

59 University statutes affecting union

(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.

60 University rules

- (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**61 Forming and taking part in corporations**

- (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.

(3) This section applies despite the Corporations Act.

62 Use of facilities and staff

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.

63 Control of traffic and conduct on university land

Schedule 1 has effect.

64 Regulation-making power

The Governor in Council may make regulations under this Act.

65 Repealed Act references

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**67 Repeal**

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

SCHEDULE 1

CONTROL OF TRAFFIC AND CONDUCT ON UNIVERSITY LAND

section 63

PART 1—AUTHORISED PERSONS AND SECURITY OFFICERS

1 Appointment of authorised persons and security officers

(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.

2 Terms of appointment

(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.

3 Identity cards

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

SCHEDULE 1 (continued)

(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.

4 Proof of authority

(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).

PART 2—TRAFFIC CONTROL

5 Persons authorised to control traffic on university's land

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

SCHEDULE 1 (continued)

(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.

6 Regulatory notice

(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 displayed by the university.

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

SCHEDULE 1 (continued)

7 Information notices

(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.

8 Removal and detention of illegally parked or abandoned vehicles

(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 regard to the safety and convenience of traffic on the university's land; and
- (b) the authorised person—
 - (i) can not 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.

SCHEDULE 1 (continued)

(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 can not 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.

9 Disposal of unclaimed vehicles

(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
- (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.

SCHEDULE 1 (continued)

10 Application of proceeds of sale

(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**11 Conduct causing a public nuisance**

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

Maximum penalty—20 penalty units.

12 Power to deal with persons causing a public nuisance

(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 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

SCHEDULE 1 (continued)

- (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 other than research assistants; and
- (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.

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

SCHEDULE 2 (continued)

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

“**indictable offence**” includes an indictable offence dealt with summarily.

“**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 *Transport Operations (Road Use Management) Act 1995*.

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

- (a) the *Transport Operations (Road Use Management) Act 1995*; 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.

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

SCHEDULE 2 (continued)

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

“vehicle” has the meaning given by the *Transport Operations (Road Use Management) Act 1995*.

“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). Accordingly, this reprint includes all amendments that commenced operation on or before 13 December 2002. 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the latest reprint.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	13 April 1998	28 April 1998
1A	to Act No. 42 of 1999	1 December 1999	1 December 1999
1B	to Act No. 81 of 1999	1 January 2000	12 January 2000
1C	to Act No. 45 of 2001	15 July 2001	6 August 2001 (Column discontinued) Notes
1D	to Act No. 75 of 2002	13 December 2002	R1D withdrawn, see R2
2	to Act No. 75 of 2002	13 December 2002	

5 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)

amending legislation—

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (see s 2(1))

Education and Other Legislation Amendment Act 1999 No. 81 pts 1, 7

date of assent 14 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2000 (see s 2)

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 schs 2–3

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provisions commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Education (Miscellaneous Amendments) Act 2002 No. 75 s 1, pt 8, s 74 sch
 date of assent 13 December 2002
 commenced on date of assent

6 List of annotations

Functions of university

s 5 amd 1999 No. 81 s 42

Dealing with casual vacancy in office of an elected member

s 20A ins 2002 No. 75 s 57

Failure to elect or appoint elected members

s 21 amd 2002 No. 75 s 58

Casual vacancies

s 22 amd 2002 No. 75 s 74 sch

PART 4—BODIES CONNECTED WITH THE UNIVERSITY

Division 5—Application of Corporations legislation to bodies

div hdg ins 2001 No. 45 s 29 sch 3

Excluded matters for Corporations legislation

s 40A ins 2001 No. 45 s 29 sch 3

Making of university statutes

s 57 amd 1999 No. 81 s 43

Forming and taking part in corporations

s 61 amd 2001 No. 45 s 29 schs 2–3

PART 8—REPEAL

pt hdg amd 2002 No. 75 s 74 sch

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)

SCHEDULE 2—DICTIONARY

def “**academic staff**” amd 1999 No. 81 s 44

def “**indictable offence**” ins 2002 No. 75 s 74 sch

def “**official traffic sign**” amd 1999 No. 42 s 54(3) sch pt 3

def “**owner**” amd 1999 No. 42 s 54(3) sch pt 3

def “**vehicle**” amd 1999 No. 42 s 54(3) sch pt 3