

Queensland



AGRICULTURAL COLLEGES AMENDMENT ACT 2002

Act No. 32 of 2002

Queensland



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Queensland



Agricultural Colleges Amendment Act 2002

Act No. 32 of 2002

An Act to amend the *Agricultural Colleges Act 1994*

[Assented to 16 August 2002]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Agricultural Colleges Amendment Act 2002*.

2 Act amended

This Act amends the *Agricultural Colleges Act 1994*.

3 Amendment of s 3 (Definitions)

(1) Section 3—

insert—

‘**“pastoral care”** includes—

- (a) care and support provided for students in a safe living and working environment; and
- (b) care and support provided—
 - (i) with the help of people in the college or the community the director considers have appropriate life experience or skills, or the ability, to work with young people who may be experiencing personal or educational difficulties; and
 - (ii) to help students develop interpersonal and living skills.’.

(2) Section 3, definition “State land”, paragraph (a)—

omit, insert—

- ‘(a) granted in trust, or reserved for a community purpose, under the *Land Act 1994*; and’.

4 Replacement of s 4 (Declaration of agricultural colleges)

Section 4—

omit, insert—

‘4 Declaration of agricultural college

‘(1) This section applies to a registered training organisation operated by the State that offers, or will offer, courses of the following kinds—

- (a) courses about agriculture;
- (b) courses of particular benefit to—
 - (i) persons engaged in rural industry or related industries; or
 - (ii) persons in the community in the area served, or to be served, by the organisation.

‘(2) The Minister may, by gazette notice, declare the registered training organisation to be an agricultural college.

‘(3) The Minister may, in the gazette notice, specify a name for the college using any 1 or more of the following as the basis for the name—

- (a) a description of the locality the college serves;
- (b) the main training function of the college;
- (c) the main business function of the community the college serves.’.

5 Amendment of s 6 (Board of trustees)

Section 6(3) and (4)—

omit, insert—

‘(3) The corporation’s name is the [Name of agricultural college] Board.’.

6 Amendment of s 7 (Functions of college board)

Section 7(3)—

omit, insert—

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

- (a) establishing and reviewing the college’s strategic direction;
- (b) developing and implementing strategic plans and business plans for the college;
- (c) deciding policy for achieving the college’s main business purpose, and for other college purposes;

- (d) ensuring the college develops and implements appropriate risk management strategies;
- (e) ensuring the college board complies with applicable financial accountability requirements;
- (f) ensuring the college complies with national and State quality standards and audit requirements for registered training organisations;
- (g) ensuring the college provides access to training for Aboriginal people, Torres Strait Islanders and others with particular needs at a level that reflects the composition of the community the college serves;
- (h) ensuring appropriate pastoral care is available for students;
- (i) developing and implementing appropriate strategies to help students make the transition from an educational environment to the workplace;
- (j) maintaining the industry links necessary for achieving support from industry for the college's activities;
- (k) encouraging opportunities for growth in the college's training market, including opportunities outside Australia;
- (l) monitoring the performance of the director and the college.'.

7 Amendment of s 8 (Powers of college board)

(1) Section 8(1)(e) and (f)—

renumber as section 8(1)(g) and (h).

(2) Section 8(1)—

insert—

'(e) provide residential accommodation for purposes associated with the college; and

(f) appoint the college's director under section 26; and'.

(3) Section 8(2)—

omit.

(4) Section 8(3)(a), '(other than in a minor way)'—

omit.

(5) Section 8(3)(d), ‘sell’—

omit, insert—

‘buy land for the college or sell or lease’.

(6) Section 8(3), as amended—

renumber as section 8(2).

(7) Section 8—

insert—

‘(3) Subsection (2)(a), (b) and (c) does not apply to the alteration or extension of a college building, or a building to be built or bought for the college, if the actual or estimated cost of altering, extending, building or buying the building is not more than an amount fixed for this section by the Minister by gazette notice.’

8 Amendment of s 10 (College board is subject to direction)

Section 10—

insert—

‘(2) If the Minister gives a college board a direction under subsection (1), the board must include in its annual report particulars of the direction and what the board did in response to the direction.¹’

9 Insertion of new s 10A

After section 10—

insert—

‘10A Reporting and accountability

‘(1) The Minister may, in writing, require a college board to give the Minister stated information and reports in the way and within the time the Minister requires.

‘(2) The college board must comply with a requirement given under subsection (1) to the extent the college board is able to comply with it.

1 For the requirement for the annual report, see the *Financial Administration and Audit Act 1977*, section 46J (Annual report).

‘(3) However, if the board can not comply with the requirement, the board must give the Minister reasons for not being able to comply with it.

‘(4) Also, a college board must give the Minister a report on any matter of which the board becomes aware that may significantly affect the ability of the board to achieve the objectives stated in the strategic plan for the college or another document given to or made with the chief executive and relevant to the operation of the college.

‘(5) The college board must give the Minister a report mentioned in subsection (4) as soon as practicable, but within 1 month, after the board first becomes aware of the matter.’

10 Replacement of s 13 (Official members)

Section 13—

omit, insert—

‘13 Official members

‘(1) There are 6 official members.

‘(2) The official members are—

- (a) the college’s director; and
- (b) a nominee of the chief executive; and
- (c) a nominee of the chief executive of the department that deals with matters under the *Stock Act 1915*; and
- (d) a nominee of the chief executive of the department that deals with matters under the *Education (General Provisions) Act 1989*; and
- (e) a staff member of the college nominated by college staff; and
- (f) a nominee of the college’s student advisory council.

‘(3) The person mentioned in subsection (2)(e)—

- (a) must be a member of the student advisory council mentioned in section 27A(2)(a) or (b); and
- (b) stops being an official member when the person’s term as a member of the student advisory council ends.²

2 See section 27D (Term of membership)

‘(4) The entity responsible for nominating a person as an official member under subsection (2)(b), (c), (d) or (e)—

- (a) may, in the nomination, specify a term, of not more than 3 years, for which the person is the entity’s nominee; and
- (b) may withdraw the person’s nomination as an official member by signed notice given to the chairperson and the person.

‘(5) A person mentioned in subsection (2)(b), (c), (d) or (e) stops being an official member on the withdrawal of the person’s nomination under subsection (4)(b).’.

11 Amendment of s 14 (Appointed members)

(1) Section 14(1), ‘9’—

omit, insert—

‘7’.

(2) Section 14(3), ‘The appointed members are’—

omit, insert—

‘The appointed members must consist of’.

(3) Section 14(3)(c) and (d)—

omit.

(4) Section 14(3)(e)—

renumber as section 14(3)(c).

(5) Section 14(4) and (5)—

omit, insert—

‘(4) Each member mentioned in subsection (3)(a), must be a nominee of an entity engaged in rural industry in the area served by the college.

‘(5) Each member mentioned in subsection (3)(c), must—

- (a) have experience in an industry whose needs are serviced by training provided by the college; or
- (b) be a member of the community served by the college.

‘(6) Also, the members mentioned in subsection (3)(a) and (c) must be persons the Minister considers have the skills and experience the Minister

considers necessary to enable them to contribute effectively to the college board's ability to perform its functions.

Examples of skills for subsection (6)—

1. Financial skills.
2. Strategic and business planning skills.
3. Performance management skills.
4. Training skills.'.

12 Amendment of s 15 (Term of appointment)

Section 15, from 'a term'—

omit, insert—

'a term, stated in the instrument of appointment, of not more than 3 years.'

13 Amendment of s 16 (Failure to nominate)

(1) Section 16(1), from 'section 14'—

omit, insert—

'section 14.³'.

(2) Section 16(3)—

omit.

14 Amendment of s 19 (Chairperson)

Section 19(2)—

omit, insert—

'(2) The chairperson must be a person the Minister considers has the skills and experience necessary to lead the college board in the performance of its functions.'

15 Amendment of s 22 (Quorum)

Section 22—

insert—

‘(2) Subsection (1) is subject to section 22B(3).’.

16 Insertion of new ss 22A-22B

After section 22—

insert—

‘22A Voting

‘At a meeting of the college board—

- (a) a question is to be decided by a majority of the votes of the members present and voting; and
- (b) each member present has a vote on each question to be decided and, if the votes are equal, the chairperson also has a casting vote.

‘22B Conflict of interest

‘(1) A member of a college board who has a material personal interest in an issue being considered by the board must not—

- (a) vote on the issue; or
- (b) vote on a proposed resolution (a **“related resolution”**) under subsection (2) about the issue, whether in relation to the member or another member; or
- (c) be present while the issue, or a related resolution, is being considered by the college board; or
- (d) otherwise take part in any decision of the college board about the issue or a related resolution.

Maximum penalty—100 penalty units.

‘(2) Subsection (1) does not apply to the issue if the college board has at any time passed a resolution that—

- (a) specifies the member, the interest and the issue; and

- (b) states that the members voting for the resolution are satisfied the interest should not disqualify the member from considering or voting on the issue.

‘(3) A quorum is present during a consideration of an issue by the college board only if the members present who are entitled to vote on any motion that may be moved about the issue number at least 1 less than the number of members required to form a quorum under section 22.’.

17 Amendment of s 23 (Conduct of meeting)

Section 23—

insert—

‘(2) The board may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen

Example of use of technology—

Teleconferencing.’.

18 Insertion of new pt 2A

After section 25—

insert—

‘PART 2A—ADMINISTRATOR

‘25A Appointment of administrator

‘(1) This section applies if the Minister—

- (a) is satisfied a college board has, for any reason, stopped functioning effectively; or
- (b) considers a college board is acting in a way that is prejudicial to the interests of its college.

‘(2) The Minister may, by gazette notice, appoint as administrator of the relevant agricultural college a person the Minister considers has appropriate qualifications and experience to be the administrator.

‘(3) The administrator is to be appointed for the term, and on the conditions decided by the Minister.

‘(4) However, the Minister may, by gazette notice, fix an earlier day as the day the purpose of the administration ends.

‘(5) The administrator—

- (a) holds office subject to the direction of the Minister; and
- (b) stops holding office—
 - (i) when the term of the appointment ends unless the administrator stops holding office under section 18(1)(a) or (d)⁴; or
 - (ii) at the end of the day fixed under subsection (4).

‘25B College board members go out of office

‘(1) On the appointment of an administrator of a college, the members of the college board go out of office.

‘(2) No compensation is payable to a member of the college board because of subsection (1).

‘25C Administrator is college board

‘(1) For all purposes of this Act, the administrator of a college is the college board.

‘(2) Subject to subsection (3), part 2, divisions 2 to 5⁵ do not apply to the administrator.

‘(3) Section 18(1)(a) and (d) and 24⁶ apply to the administrator as if the administrator were a member of the college board.

‘25D Additional functions of the administrator

‘(1) The administrator of a college has the following additional functions—

4 Section 18 (Vacation of office)

5 Part 2 (Agricultural College Boards), divisions 2 (College board composition and members), 3 (Chairperson and deputy chairperson), 4 (Meetings of college board) and 5 (Other provisions about college board members)

6 Sections 18 (Vacation of office) and 24 (Entitlements of college board members)

- (a) to do anything necessary or convenient for the benefit of the college until the purpose of the administration is achieved and appropriate arrangements can be made for the appointment of a new college board;
- (b) to give the Minister a report on the college board's financial position and anything else the Minister requires the administrator to include in the report;
- (c) to give the Minister a final report on the administrator's administration, including details of any directions given by the Minister to the administrator.

‘(2) The Minister must table the administrator's final report in the Legislative Assembly within 28 days after receiving it.

‘25E Completion of administration

‘On the completion of the administration, the administrator of a college is, in the absence of fraud or dishonesty, released from responsibility to account for the administration of the college.’.

19 Amendment of s 26 (Director)

Section 26(2) to (4)—

omit, insert—

‘(2) The college board is to appoint the director.

‘(3) The director is the chief executive officer of the college.

‘(4) Subject to the board, the director—

- (a) is responsible for the day to day management of the college; and
- (b) may appoint the college's staff.

‘(5) The director and the college staff are appointed under this Act and not under the *Public Service Act 1996*.’.

20 Insertion of new pt 3A

After section 27—

insert—

‘PART 3A—STUDENT ADVISORY COUNCIL

‘27A Student advisory council

‘(1) There is a student advisory council.

‘(2) The student advisory council consists of not more than 8 members comprising not more than—

- (a) 5 students; and
- (b) 1 former student; and
- (c) 2 staff members.

‘27B Eligibility

‘(1) The following persons are eligible to be a member of the student advisory council—

- (a) students of the college;
- (b) former students of the college who graduated from the college within the 5 years before the start of the year for which the person is to be a member of the advisory council;
- (c) staff members of the college.

‘(2) The following persons are not eligible to be a member of the student advisory council—

- (a) an official member of the college board, other than the nominee of the student advisory council;
- (b) an appointed member of the college board.

‘(3) The students of the college are to elect persons from the persons mentioned in subsection (1)(a) as members of the student advisory council.

‘(4) The college staff are to elect persons from the persons mentioned in subsection (1)(c) as members of the student advisory council.

‘(5) An entity entitled to elect persons as members of the student advisory council must elect the persons as and when required by the college board.

‘(6) The college board is to decide the way the member mentioned in section 27A(2)(b) is to be selected.

‘27C Functions

‘(1) The student advisory council has the following functions—

- (a) advising the college board or the director on matters the board or director refers to the advisory council;
- (b) advising the college board or the director on matters about the college or students the advisory council considers should be referred to the board or director;
- (c) other functions conferred on it by this Act.

‘(2) The student advisory council is not the employee or agent of the college board.

‘27D Term of membership

‘(1) A member of a college’s student advisory council for a particular year holds office until the end of that calendar year and may resign the office by signed notice given to the director.

‘(2) However, a student advisory council member who is a student or a staff member stops being a member of the advisory council on stopping being a student or staff member.

‘27E Conduct of meetings

‘(1) The advisory council must choose a student member to be the chairperson of the advisory council.

‘(2) The advisory council may otherwise regulate its proceedings as it considers appropriate.’.

21 Amendment of s 28 (Application of Land Act 1962)

(1) Section 28, heading, ‘**Land Act 1962**’—

omit, insert—

‘Land Act 1994’.

(2) Section 28(1), ‘*Land Act 1962*’—

omit, insert—

‘Land Act 1994’.

22 Amendment of s 32 (General fund)

Section 32(3), from ‘fund’—

omit, insert—

‘fund—

- (a) to pay the college’s operating costs; or
- (b) if an amount is for capital works—to pay for capital works.’.

23 Amendment of s 33 (Other funds)

Section 33, ‘(Funds)’—

omit.

24 Amendment of pt 5, hdg

Part 5, heading, ‘COLLEGE’—

omit.

25 Insertion of new pt 5, div 1, hdg

Part 5, before section 36—

insert—

‘Division 1—College rules’.

26 Insertion of new pt 5, div 2—

Part 5, after section 37—

insert—

‘Division 2—Operational rules

‘37A Operational rules

‘(1) The director may make rules (“**operational rules**”) under this Act for any purpose—

- (a) authorised by a college rule about anything mentioned in section 36(2); or

(b) that is necessary or convenient for the day to day management of the college.

‘(2) An operational rule that is inconsistent with a college rule is, to the extent of the inconsistency, invalid.

‘(3) As soon as practicable after an operational rule is made, the director must publish the rule in a way that gives persons affected by the rule appropriate notice of the rule and its effect.

‘(4) The operational rule takes effect on the day of its notification or, if a later day is stated in the rule for its commencement, the later day.

‘(5) Also, if a person asks for a copy of the operational rule, the director must give the person a copy free of charge.’.

27 Insertion of new s 39A

After section 39—

insert—

‘39A Delegation by Minister

‘The Minister may delegate the Minister’s powers under this Act to the chief executive.’.

28 Insertion of new s 41

After section 40—

insert—

‘41 Numbering and renumbering of Act

‘In the next reprint of this Act produced under the *Reprints Act 1992*, provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

29 Replacement of pt 7, hdg

Part 7, heading—

omit, insert—

‘PART 7—TRANSITIONAL PROVISIONS

‘Division 1—Transitional provision for Act No. 58 of 1994’.

30 Insertion of new pt 7, div 2

After section 48—

insert—

‘Division 2—Transitional provisions for Agricultural Colleges Amendment Act 2002

‘49 Existing agricultural colleges

‘Each agricultural college in existence immediately before the commencement of the *Agricultural Colleges Amendment Act 2002*, section 4 continues to be an agricultural college as if it had been declared to be an agricultural college under this Act as in force on the commencement of that section.

‘50 Official members

‘(1) On the commencement of the *Agricultural Colleges Amendment Act 2002*, section 10, the person who was an official member of a college board because of section 13(2)(b) of this Act as in force immediately before the commencement continues to be an official member of the college board of which the person was an official member.

‘(2) On the commencement of the *Agricultural Colleges Amendment Act 2002*, section 10, the person who was an official member of a college board because of section 13(2)(c) of this Act as in force immediately before the commencement continues to be an official member of the college board until the person stops being the president of the student body recognised by the director as representing the interests of the college’s students.

‘51 Appointed member who becomes official member

‘(1) On the commencement of the *Agricultural Colleges Amendment Act 2002*, section 10, a person who was an appointed member of a college board because of section 14(3)(c) or (d) of this Act as in force immediately before the commencement becomes an official member of the college board to which the person was appointed.

‘(2) The member continues to be an official member until the member stops being the nominee of the relevant entity for any reason, including the appointment of someone else as the entity’s nominee.

‘52 Change in term of appointment

‘The reduction in the term of appointment of an appointed member by the *Agricultural Colleges Amendment Act 2002*, section 12 does not end the appointed member’s term of appointment before the member’s term would otherwise have ended.’.