



ANNO NONODECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 19 of 1970

**An Act to Provide for the Establishment and Incorporation
of a University at Townsville, and for purposes
connected therewith**

[ASSENTED TO 20TH APRIL, 1970]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title and commencement. (1) This Act may be cited as the *James Cook University of North Queensland Act 1970*.

(2) This Act shall come into operation on the day on which it receives the Royal Assent.

2. Division of Act. This Act is divided into Parts as follows:—

PART I—PRELIMINARY (ss. 1-3);

PART II—CONSTITUTION AND GOVERNMENT OF THE UNIVERSITY

Division 1—The University (s. 4);

Division 2—The Council (ss. 5-17);

Division 3—Convocation (s. 18);

Division 4—The Union (ss. 19-22);

PART III—FUNCTIONS OF UNIVERSITY, ETC. (ss. 23–25);

PART IV—ESTABLISHMENT OF COLLEGES (ss. 26–29);

PART V—PROPERTY AND FINANCE (ss. 30–38);

PART VI—STATUTES AND REGULATIONS (ss. 39–42);

PART VII—MISCELLANEOUS (ss. 43–44);

PART VIII—PROVISIONS RELATING TO THE UNIVERSITY COLLEGE OF TOWNSVILLE (ss. 45–46).

3. Interpretation. In this Act, unless the contrary intention appears—

“Convocation” means the Convocation of the University constituted under this Act;

“Council” means the Council of the University constituted under this Act;

“Minister” means the Minister for Education or other Minister of the Crown for the time being charged with the administration of this Act: The term includes a Minister of the Crown temporarily performing the duties of the Minister administering this Act;

“permanent academic staff” means the members of the teaching and research staff of the University under an appointment which by the terms thereof may without renewal continue for a period of not less than three years whose status is equivalent to that of senior demonstrator or above;

“Rules” means the Rules made by the Council under a Statute;

“Statutes” means the Statutes of the University made under this Act;

“Union” means the James Cook University of North Queensland Union constituted under this Act;

“University” means the James Cook University of North Queensland, established and incorporated by this Act.

PART II—CONSTITUTION AND GOVERNMENT OF THE UNIVERSITY

Division 1—The University

4. Establishment and incorporation of University. (1) A University to be known as the James Cook University of North Queensland consisting of a Council, Convocation, members of the teaching and research staff and the enrolled students of the University, is hereby established at Townsville in the State of Queensland.

(2) The University shall be a body corporate under the name of the “James Cook University of North Queensland” and by that name shall have perpetual succession, a common seal and be capable by that name of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction all debts or sums of money due to it;
- (c) taking, acquiring by grant, purchasing, taking on lease, property (whether situated in Queensland or elsewhere);
- (d) granting, selling, alienating, leasing, assigning, transferring and surrendering to the Crown, property (whether situated in Queensland or elsewhere); and
- (e) doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

Division 2—The Council

5. The Council. (1) There shall be a Council of the University which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon the Council by or under this Act.

(2) The governing authority of the University shall be the Council.

6. Constitution of first Council. (1) The first Council shall consist of the persons who immediately before the commencement of this Act held office as members of the Advisory Council of the University College of Townsville.

(2) The members of the first Council shall, subject to this Act, hold office until the Council is duly constituted under section 7 of this Act and assumes office or until the expiration of one year from the commencement of this Act, whichever is the earlier.

(3) Where a casual vacancy occurs in the office of a member of the first Council the Governor in Council may appoint a person to the vacant office. The person so appointed shall hold office for the residue of his predecessor's term of office.

(4) The members of the first Council shall at their first meeting elect from their number a Chairman and Vice-Chairman.

(5) At every meeting of the first Council the Chairman or, if he is not present, the Vice-Chairman shall preside, but if both the Chairman and Vice-Chairman are not present, the members present shall elect a person from their number to preside as Chairman.

(6) The first Council shall take all steps necessary to ensure that the Council is duly constituted under section 7 of this Act as early as practicable after the commencement of this Act.

7. Constitution of Council other than first Council. (1) Subject to subsection (3) of this section and section 10 of this Act, the Council, other than the first Council, shall consist of—

- (a) the Vice-Chancellor of the University who shall be *ex officio* a member;
- (b) the Regional Director of Education, Northern Region, who shall be *ex officio* a member;
- (c) the Chairman of the Academic Board of the University constituted under the Statutes who shall be *ex officio* a member;
- (d) three members who are members of the permanent academic staff of the University appointed by that staff;
- (e) one member who is a member of the Staff Association of the University appointed by the Association;
- (f) two members each of whom is a graduate, or an enrolled student, of the University appointed by the Council of the Union;
- (g) six members appointed by the Governor in Council;

- (h) six members appointed or elected, in the manner prescribed by the Statutes, by Convocation but so that there shall not at any one time be included in the number of persons so appointed or elected—
 - (i) more than one person whose sole or principal employment is in connexion with his duties as a member of the teaching or research staff of the University; or
 - (ii) more than two persons whose sole or principal employment in each case is in connexion with his duties as a member of the teaching staff of a secondary school, technical college, institute of technology or similar educational institution.

(2) The Council constituted in accordance with subsection (1) of this section shall assume office upon such day as the Governor in Council may appoint in that behalf and notify by Proclamation published in the Gazette.

(3) The Council (other than the first Council) as constituted for the time being may from time to time appoint a person or persons to be a member or, as the case may be, members of the Council but so that—

- (a) the number of persons so appointed shall not at any one time exceed three;
- (b) the term of office of a member appointed in pursuance of this subsection shall, subject to this Act, expire on the same day as the term of those appointed members appointed for the purposes of subsection (1) of this section who are in office at the date of his appointment expires;
- (c) a person whose sole or principal employment is in connexion with his duties as a member of the teaching or research staff of the University shall not be appointed a member of the Council under this subsection.

(4) A member of the Council other than an *ex officio* member is in this Act referred to as an “appointed member”.

(5) The appointed members of the Council shall, subject to this Act, hold office for a period not exceeding three years as the Statutes may prescribe.

(6) Subject to subsection (4) of section 10 of this Act, in the event of a casual vacancy in the office of an appointed member of the Council a member shall be appointed or elected—

- (a) in such cases and in such circumstances as are specified in the Statutes, in such manner as is prescribed by the Statutes; or
- (b) where no cases or circumstances are so specified, in the same manner as that in which the member whose office is vacant was appointed or elected,

and the person so appointed or elected shall hold office for the residue of his predecessor's term of office.

(7) If a body permitted or required by this section to appoint or elect a person or number of persons to be a member or members of the Council fails or refuses to appoint or elect a sufficient number of such persons by a date determined by the Council, the Minister may appoint a sufficient number of persons who shall be deemed to have been appointed or elected by the body who could or should have appointed or elected him or them.

(8) If—

- (a) an appointed member of the Council is or may be prevented by absence, illness or other cause whatsoever, from performing his duties as a member of the Council; and
- (b) the person who, or the executive or other group or person charged with the management of the affairs of the body which, appointed or elected such member is or are of opinion that the member will be so prevented from performing those duties during the period during which two ordinary meetings of the Council may be held,

that person, executive or other group, as the case may be, may appoint some other eligible person to act as a member of the Council in place of the member during such time as he is prevented from performing those duties, and the person appointed whilst so acting shall have and may exercise all the powers, functions and authorities of, and may perform all the duties of, a member of the Council.

8. Disqualifications from office. (1) A person who—

- (a) is not of the full age of twenty-one years;
- (b) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (c) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission which if done or made by him in Queensland would have constituted an indictable offence unless the Council is of the opinion that the circumstances of the offence do not warrant disqualification from office; or
- (d) is a patient within the meaning of *The Mental Health Acts 1962 to 1964*,

shall not be capable of being or continuing to be, a member of the Council.

(2) A person who ceases to hold the office or qualification essential to his appointment or election as a member of the Council in terms of paragraphs (d), (e) or (f) of subsection (1) of section 7 of this Act is not capable of continuing to be a member of the Council in terms of the relevant paragraph.

9. Vacation of office. An appointed member shall be deemed to have vacated his office as an appointed member if he—

- (a) dies;
- (b) is absent, without leave granted by the Council, from every meeting of the Council, of which due notice has been given to him, in any period of six months;
- (c) resigns his office by writing under his hand delivered to the Registrar; or
- (d) becomes an *ex officio* member.

10. Appointment of Chancellor. (1) The Council at its first meeting after the day appointed under subsection (2) of section 7 of this Act, and thereafter whenever a vacancy occurs, shall elect a Chancellor of the University who shall hold office for such period (not exceeding five years) and on such conditions as are provided by the Statutes.

(2) The Chancellor may be elected from amongst the members of the Council or otherwise.

(3) The Chancellor shall be *ex officio* a member of the Council.

(4) When the person elected as Chancellor is already an appointed member of the Council at the time of his election, the office that he held as such a member shall be declared vacant, and thereupon the appropriate steps shall be taken pursuant to subsection (6) of section 7 of this Act by the person or body concerned to fill the vacancy for the unexpired portion of the term for which he was appointed as an appointed member unless in a case where that unexpired portion is less than six months the Council by resolution determines that the position be not filled.

11. Election of Deputy Chancellor. (1) The Council shall at its first meeting after the day appointed under subsection (2) of section 7 of this Act, and thereafter annually elect one of its number to be Deputy Chancellor of the University.

(2) The Deputy Chancellor shall hold office for one year from the date of his election or until the election, pursuant to subsection (1) of this section, of another Deputy Chancellor whichever first happens and on such conditions as are prescribed by the Statutes.

(3) In the absence of the Chancellor or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor shall have all the powers and duties of the Chancellor.

12. Chairmanship of Council. (1) The Chancellor shall preside at all meetings of the Council at which he is present.

(2) At any meeting of the Council at which the Chancellor is not present—

(a) the Deputy Chancellor; or

(b) where the Deputy Chancellor is not present, a member of the Council elected by and from the members present,

shall preside.

13. Appointment of Vice-Chancellor. (1) The first Vice-Chancellor of the University shall be the person who immediately before the commencement of this Act was the Warden of the University College of Townsville and subject to this section he shall (unless he sooner ceases to be a member of the Council) hold office as from the commencement of this Act for a period of three years on such conditions as the Council may determine but not less favourable than the conditions on which he held office as the said Warden.

(2) Whenever a vacancy occurs in the office of Vice-Chancellor, the Council shall, subject to subsection (4) of this section, appoint a person (whether a member of the Council or not) to be Vice-Chancellor.

(3) Subject to subsection (4) of this section, the Vice-Chancellor, other than the first Vice-Chancellor, shall be appointed for such period and on such conditions as the Council determines.

(4) Any appointment made under subsection (2) of this section and the period and conditions of such an appointment shall be of no force and effect unless and until the same are approved by the Governor in Council.

(5) The Vice-Chancellor shall be the chief executive officer of the University and shall possess such powers and perform such duties as the Statutes prescribe or, subject to the Statutes, as the Council determines.

14. Re-election or re-appointment. Nothing contained in this Act shall prevent any person from being immediately, or at any time, re-appointed or re-elected to any office or place under this Act if he is otherwise capable for the time being of holding that office or place.

15. Validity of proceedings. No proceedings of the Council, or of any committee thereof, and no act done by the Chancellor, Deputy Chancellor or any person acting pursuant to and in accordance with the Statutes as Chancellor shall be invalidated by reason of—

- (a) any defect in the appointment or election of, or of any disqualification of, any member of the Council or any such person; or
- (b) any defect in the convening or conduct of any meeting of the Council or any committee thereof; or
- (c) there being any vacancy in the number of members of the Council or any committee thereof; or
- (d) the fact that a person purporting to be a member of the Council or any committee thereof by virtue of an office held by him did not hold that office; or
- (e) the fact that a person purporting to be a member of the Council or any committee thereof was not such a member.

16. Powers of Council. Subject to this Act and the Statutes, the Council—

- (a) shall have full power and authority from time to time to appoint and dismiss all deans, professors, readers, lecturers, examiners and other officers and servants of the University;
- (b) subject to paragraph (c) of this section shall have the entire management and control of the affairs, concerns, and property of the University and may act in all matters concerning the University in such manner as appears to it best calculated to promote the interests and purposes of the University; and
- (c) shall have the entire management and control of the finances of the University and in particular—
 - (i) shall, in each year, adopt for the next following year commencing on the first day of January a budget for all funds of the University other than those to which subparagraph (ii) of this paragraph relates and shall approve all amendments to the Budget and shall control the expenditure of the University so that it conforms as nearly as practicable to the approved budget;
 - (ii) shall review annually funds available to the University by way of bequest, donation or special grant and the expenditure thereof and shall, subject to the terms of any trust and before any such expenditure is made, approve the proposed disposition of those funds.

17. Delegation by Council. (1) The Council may, in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution, delegate all or any of its powers and authorities, duties and functions under this Act (except this power of delegation and its powers in relation to the making of Statutes or Rules) to any member or to any committee of its members, or to any officer or officers of the University.

(2) Every delegation under this section may be varied or revoked by resolution of the Council, and no delegation shall prevent the exercise of any power, authority, duty or function by the Council.

(3) A power, authority, duty or function delegated by the Council may be exercised or performed by the delegate—

(a) in accordance with the resolution of delegation; and

(b) if the exercise of the power or authority or the performance of the duty or function is dependent upon the opinion, belief or state of mind of the Council in relation to a matter, upon the opinion, belief or state of mind of the delegate in relation to that matter.

Division 3—Convocation

18. Constitution of Convocation. (1) There shall be a Convocation of the University consisting of—

(a) all members and past members of the Council;

(b) all past members of the Advisory Council of the University College of Townsville;

(c) all graduates of the University enrolled as members of Convocation in the register of graduates in accordance with the provisions of the Statute relating to such register;

(d) all full-time members of the teaching and research staff of the University and such other members of the staff of the University as the Statutes may prescribe;

(e) such graduates of other Universities, or other persons, as are, in accordance with the Statutes, admitted as members of Convocation; and

(f) without prejudice to the generality of paragraph (e) of this subsection, graduates of the University of Queensland who, while undergraduates, spent at least three years as properly enrolled students of the University College of Townsville.

(2) Meetings of Convocation shall be convened and the business at such meetings shall be conducted in the manner prescribed by the Statutes.

(3) A quorum of any meeting of Convocation shall be such number of members as the Statutes prescribe.

(4) Convocation shall have and may exercise such powers, authorities, duties and functions as may be prescribed by the Statutes.

Division 4—The Union

19. The James Cook University of North Queensland. (1) There shall be a James Cook University of North Queensland Union.

(2) As from such date as the Governor in Council may appoint in that behalf and notify by Proclamation published in the Gazette, the Union shall be a body corporate under the name of the "James Cook University of North Queensland Union" and by that name shall have perpetual succession and a common seal and be capable of suing and being sued.

(3) The Union shall have such other powers and authorities and be subject to such obligations as shall have been or shall from time to time be prescribed by or under the Statutes.

(4) Except in the case of emergency (of which the Council shall be sole judge) the Council shall submit to the Union a draft of any proposed Statute affecting the powers, authorities or obligations of the Union and shall consider any representations the Union may make thereon.

20. The constitution of the Union. The constitution of the Union and all amendments thereto or alterations or modifications thereof shall be submitted to the Council through the Registrar and shall have no force or effect unless and until approved by the Council.

21. Composition and recognition of the Union. (1) All students of the University and such other persons as shall be defined by its constitution shall be eligible for membership of the Union.

(2) The Union shall be an organized association of such students and other members for the furthering of the objects of the Union as defined by its constitution.

(3) It is not the intention of this Part that the Union shall be, or shall be regarded as, for any purpose the servant or agent of the Council or the University.

22. Transitional. (1) For the purpose of facilitating and enabling the preparation and adoption of a constitution by the Union upon the commencement of this Act, the provisions of the constitution of the University College of Townsville Union as in force immediately prior to that commencement with respect to membership and meetings, including the holding, notification and conduct of meetings with all necessary adaptations and with such modifications as the Council may deem expedient shall be applicable to the Union and until a constitution is first adopted after the commencement of this Act membership of the Union shall be, and meetings shall be held, called and conducted accordance with those provisions as so adapted and modified.

(2) In so far as the provisions referred to in subsection (1) of this section do not extend, the Council may give such directions, not inconsistent with this Act, as it deems expedient for the purpose of facilitating and enabling the preparation and adoption of a constitution by the Union and all things done and steps taken by or in relation to the Union in accordance with such directions shall be of full force and effect and binding on the Union and all persons.

PART III—FUNCTIONS OF UNIVERSITY, ETC.

23. Functions of the University. The functions of the University shall, within the limits of its resources, include the following:—

- (a) to encourage and provide facilities for study and research both generally and in relation to subjects of special importance to the tropics;
- (b) to provide educational facilities at university standards for persons who being eligible to enrol seek the benefits of such facilities;
- (c) to establish such facilities as the University deems desirable for providing courses of study or instruction at such levels of attainment as the Council deems proper to meet the special needs of the community;
- (d) subject to the Statutes, to award and confer degrees and diplomas.

24. Faculties, schools, institutes and departments. The Council may, for the purpose of discharging the functions of the University, establish such faculties, schools, institutes and departments as it sees fit.

25. Concession to persons training for teaching positions. (1) The Council shall allow the attendance without payment at the courses of instruction for degrees and diplomas by any person who is training for the position of a teacher and who—

- (a) is one of a class of such persons approved by the Governor in Council or is otherwise approved by the Governor in Council; and
- (b) has previously fulfilled the entrance requirements prescribed by the Council in relation to the course of instruction to be undertaken by him.

(2) The Governor in Council may define a class of persons approved by him for the purposes of this section in such manner as he thinks fit.

PART IV—ESTABLISHMENT OF COLLEGES

26. Establishment of university colleges. (1) The Governor in Council on the recommendation of the Council, may from time to time by Order in Council establish colleges or other university institutions (each of which is in this Part called a “college”).

(2) The Governor in Council may in the Order in Council establishing a college or by another Order in Council—

- (a) assign to the college such name or title as he thinks appropriate;
- (b) declare at what place the college shall be situated;
- (c) specify the provisions applicable to and in relation to the college which provisions shall be binding upon all persons in relation to that college and which may include—
 - (i) the powers, authorities, duties and functions which the Council may exercise and perform in respect of the college;
 - (ii) the general arrangements for the local management, supervision, and control of the college including if necessary the constitution of an advisory council in respect thereof and the membership of such council;

- (iii) the financial arrangements for or in respect of the establishment or maintenance of or both the establishment and maintenance of, the college; and
- (iv) generally such other matters or things that may be necessary or desirable in order to carry out in respect of the college the purposes of this Part.

(3) The power to make an Order in Council under this section shall include power to make (with respect to all or any of the matters specified in this subsection) such and so many Orders in Council, either at the same time or from time to time, as the Governor in Council shall deem necessary or expedient in the circumstances.

27. A college to be part of University. (1) A college shall be, and shall function as, part of the James Cook University of North Queensland.

(2) Subject as otherwise may be provided by Order in Council made under section 26 of this Act or by Statute, the Council may exercise in relation to a college all the powers conferred on the Council by this Act or the Statutes in relation to the University and shall have the entire management of and superintendence over the affairs and concerns of the college and of any property held by the University upon trust for the purpose of the college, and in all cases unprovided for by this Act the Council may in relation to the college and to any such property act in such manner as appears to it best calculated to promote the interests or purposes of the college.

(3) Subsection (2) of this section shall be construed as being in aid of and not in derogation of subsection (1) of this section.

28. Powers and functions of advisory council. An advisory council constituted for a college may, subject to this Act—

- (a) exercise and perform such powers, authorities, duties and functions as may be prescribed by Statute; and
- (b) exercise and perform such of the powers, authorities, duties, and functions conferred or imposed on the Council by section 27 of this Act as are delegated from time to time to the advisory council by the Council.

29. Gifts, devises, etc., of property to or for a college. (1) The University shall have power to acquire by gift, devise or bequest any property upon trust to apply the same or the proceeds thereof or the income therefrom for the benefit of a college.

(2) Any gift, devise, or bequest of any property made or purporting to be made to a college shall be deemed to be a gift, devise, or bequest, as the case may be, to the University upon trust to apply the same for the purposes of the college in accordance with the terms of the gift, devise, or bequest; and where there has been a gift, devise, or bequest to trustees upon trust for a college, any act which might have been performed by the college if it had been an independent corporate body may be performed by the University, and any such act by the University shall have the same validity and effect in law as it would have had if the college had been an independent corporate body and had performed the act.

(3) If before the establishment of a college under this Part any property had been vested in or acquired by any person upon trust for the purposes for which the college is established such person may after the

college is established and notwithstanding anything contained in the terms of the trust convey or transfer the property to the University upon trust to apply the same or the proceeds thereof or the income therefrom for the benefit of the college, and the acceptance of the property by the University shall be a complete discharge to such person.

PART V—PROPERTY AND FINANCE

30. Variation of terms of trusts and gifts. (1) Where any property is held by the University either at the date of the commencement of this Act or at any time thereafter on terms requiring such property or the income therefrom to be applied for a purpose or purposes and—

- (a) such purpose or all or any of such purposes has or have been effected;
- (b) such purpose or all or any of such purposes has or have ceased to exist;
- (c) such purpose or all or any of such purposes has or have been adequately provided for by other means;
- (d) such purpose is or all or any of such purposes are uncertain or cannot be identified or is or are not sufficiently defined;
- (e) it becomes impossible or impracticable or inexpedient to carry out the purpose or all or any of such purposes; or
- (f) the property or income derived therefrom proves inadequate to carry out such purpose or all or any of such purposes,

then subject to the provisions of this section the Council may cause to be prepared a scheme by which that property or any part or residue thereof shall be held on terms requiring such property, part or residue or the income therefrom to be applied for the purpose or purposes designated in the scheme.

(2) A scheme prepared pursuant to subsection (1) of this section shall be submitted by the Council to the Governor in Council.

(3) Upon receipt of a scheme pursuant to subsection (2) of this section, the Governor in Council may—

- (a) approve the scheme; or
- (b) approve the scheme with such modifications as he thinks fit; or
- (c) refuse to approve the scheme.

(4) A scheme approved by the Governor in Council (with or without modifications) under subsection (3) of this section is, in this section and sections 31 and 32 of this Act, in relation to the property or part or residue thereof concerned, called the “approved scheme” and shall be published in the Gazette.

(5) Where in relation to any property or part or residue thereof held by the University there is in existence for the time being, an approved scheme, such property, part or residue thereof shall in accordance with the approved scheme be diverted from the purpose or purposes for which it was held and shall be held for the purpose or purposes as designated in the approved scheme.

31. Amendment of approved scheme. (1) If the Council desires from time to time to amend an approved scheme it shall submit its amendment or amendments to the Governor in Council.

(2) Upon receipt of the amendment or amendments of an approved scheme pursuant to subsection (1) of this section, the Governor in Council may—

- (a) approve the amendment or amendments; or
- (b) approve the amendment or amendments with such modifications as he thinks fit; or
- (c) refuse to approve the amendment or amendments.

(3) An amendment or amendments to an approved scheme approved by the Governor in Council under subsection (2) of this section shall be published in the Gazette and thereupon the approved scheme in relation to which such amendment has or amendments have been approved shall be amended in accordance with the approval and as so amended shall be the approved scheme for the time being in relation to the property, part or residue the subject of such scheme.

32. Provisions relating to approved schemes. (1) Where property the subject of an approved scheme consists (wholly or in part) of land, the University shall within fourteen days after the publication in the Gazette of the approved scheme and within fourteen days after the publication in the Gazette of every amendment thereof, notify the authority charged in law with the registration of dealings relating to the said land of the approved scheme or, as the case may be, amendment.

(2) In selecting a purpose for an approved scheme or for any amendment of an approved scheme the Council shall have a preference for a purpose which, in its opinion, is as nearly similar to the purpose or purposes for which the property concerned is, for the time being, held by the University as is consistent with useful and convenient achievement but an approved scheme or an approved amendment to such a scheme shall not be invalidated or otherwise prejudiced by reason of the fact that another purpose may have more properly been selected by the Council in accordance with this subsection.

(3) Upon its publication in the Gazette judicial notice shall be taken of an approved scheme and of any amendment thereof.

(4) The powers conferred by this section and sections 30 and 31 of this Act are in addition to any other powers or rights exercisable in law in respect of property held by the University upon trust.

33. University may accept gifts, etc., subject to conditions, and establish trust funds. In exercising its power to take, acquire by grant, purchase or take on lease any property the University may agree to and carry out any conditions of any gift, grant, bequest, devise or other means whereby it takes or acquires any property or of any such purchase or lease and the Council may create and administer any trust fund or funds in connexion therewith or for any other purpose whatsoever.

34. Powers of investment. (1) The Council may establish one or more investment common funds for the collective investment of any trust and other moneys held by or in the custody of the University.

(2) The Council may from time to time without liability for breach of trust bring into or withdraw from any such investment common fund the whole or any part of any moneys of the University or of any trust moneys or any other moneys held by or in the custody of the University.

(3) Subject to subsection (4) of this section the Council shall periodically distribute the income of each investment common fund

among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Council may if it considers it expedient so to do from time to time add some portion of the income to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) Any moneys of the University (whether forming part of a Common Fund or not), including moneys held upon trust or subject to a condition, may be invested by the Council from time to time in any form of investment authorized by Statute whether an authorized trustee investment or not.

(6) The powers conferred on the Council by this section or by any Statute relating to investment of property shall not be exercised by the Council in relation to any trust fund or other moneys—

- (a) if the instrument creating the trust expressly directs to the contrary; or
- (b) if the exercise of the power would constitute a breach of any condition under which the fund or moneys in question were acquired.

35. Endowment. There shall be paid to the Council each year out of the Consolidated Revenue of the State such sums as are appropriated by Parliament for the purpose.

36. Application of revenue by University. (1) All fees and all other moneys received by the Council under this Act or otherwise shall subject to this Part of this Act and to the terms of any applicable trust be applied by the Council solely for the purposes of the University.

(2) For the purposes of subsection (1) of this section, the application of moneys from time to time by the Council for the purpose of—

- (a) enabling a member or former member of the University to pursue study or research at the University or elsewhere than at the University;
- (b) the advancement of learning generally; or
- (c) assisting any institution declared by Statute to be affiliated or associated with the University,

is an application of those moneys for the purposes of the University.

37. Temporary financial accommodation. (1) For the purpose of providing temporary financial accommodation for enabling the University to exercise and perform its functions, the Council, in the name of and on behalf of the University, may and is hereby authorized, with the prior approval of the Governor in Council, to obtain from time to time advances—

- (a) by way of loan from the Treasurer;
- (b) by way of loan or overdraft from any bank; or

(c) by way of loan from any other person, upon, at and subject to such security, rate of interest and other terms and conditions as the Council, subject to the approval of the Governor in Council, thinks fit.

(2) Before entering into negotiations with respect to the obtaining of any advance by way of loan or overdraft from any bank or other person the Council shall obtain the sanction of the Treasurer authorizing it to enter into such negotiations and for the purpose of obtaining that sanction the Council shall submit to the Treasurer such information as the Treasurer may require.

(3) Repayment of the amount of any advance by way of loan or overdraft obtained by the Council from any bank or other person pursuant to this section, together with interest thereon at the approved rate, shall be deemed to be guaranteed by the Treasurer on behalf of the Government of Queensland.

(4) All moneys payable by the Treasurer pursuant to subsection (3) of this section shall be paid out of moneys to be from time to time appropriated by Parliament for the purpose.

(5) The University shall be a "local body" under and within the meaning of *The Local Bodies' Loans Guarantee Acts 1923 to 1957* the provisions whereof shall, subject to such modifications as the Governor in Council may prescribe (either generally or in respect of a particular loan or advance), apply and extend accordingly.

38. Accounts and Audit. (1) The Council shall cause to be kept in relation to the funds and assets of the University such accounting and associated records as shall correctly record and explain all transactions.

(2) The Council shall, as soon as practicable after each thirty-first day of December, prepare and transmit to the Minister statements of accounts in respect of the year ended on that date in the form approved by the Auditor-General. Prior to such transmission the Auditor-General shall certify whether or not the statements of accounts submitted exhibit a true and fair view of the financial transactions of the University for the period to which they relate.

(3) The Auditor-General or an officer authorized by him shall audit the accounts and records of financial transactions of the University and the cost of this audit shall be met by the University.

(4) The Auditor-General shall at least once in each year report to the Council the results of the audit carried out under subsection (3) of this section and, if he deems necessary, shall make recommendations to the Council in regard to the conduct of the financial transactions of the University.

(5) The Council shall give due consideration to the report and recommendations, if any, of the Auditor-General made in accordance with subsection (4) of this section.

(6) The Auditor-General or an officer authorized by him shall have a right of access at all reasonable times to the accounting and associated records of the University and shall be entitled to require from an officer

or employee of the University such information and explanation as he considers necessary for the purpose of the audit and the person shall comply with the requirement.

(7) The Auditor-General shall transmit to the Minister through the Treasurer a copy of any report and recommendations made by him under subsection (4) of this section and shall include in his Annual Report to Parliament such matters relating to the financial transactions for the year as he may consider necessary.

PART VI—STATUTES AND REGULATIONS

39. Statutes. (1) The Council may from time to time make Statutes not inconsistent with this Act with respect to all or any of the following matters, that is to say—

- (i) the use and custody of the common seal;
- (ii) the method of appointment or election of members of the Council by Convocation;
- (iii) the manner and time of convening, holding, and adjourning the meetings of the Council and of Convocation; the quorum of and voting at such meetings; the powers and duties of the person acting as chairman thereof; the chairmanship of Convocation; the conduct and record of the business; the establishment and appointment of committees of the Council and of Convocation, and the quorum, powers, and duties of such committees;
- (iv) the resignation of members of the Council, the Chancellor and the Deputy Chancellor;
- (v) the appointment of a person to act for the Deputy Chancellor during the illness or absence of such officer;
- (vi) the number, appointment, termination of appointment, discipline (including the dismissal, suspension, and imposition of disciplinary punishments other than dismissal or suspension), and, subject to applicable awards or industrial agreements, the stipends or salaries or wages of professors, readers, lecturers, examiners, and other officers and servants of the University;
- (vii) the matriculation of students;
- (viii) the granting of degrees, diplomas, certificates and honours;
- (ix) the granting of fellowships, scholarships, exhibitions, bursaries, and prizes;
- (x) the admission of students of other Universities to any corresponding status or of graduates of other Universities to any corresponding degrees or diplomas without examination;
- (xi) the admission of persons who were, immediately before the commencement of this Act, students of the University College of Townsville to any corresponding status without examination;
- (xii) the admission of members to Convocation;
- (xiii) the fees to be paid for examinations, for the granting of degrees, diplomas, and certificates, for attendance at the lectures and classes of the University, and for the use of University facilities;

- (xiv) the establishment, management, and control of libraries and museums in connexion with the University;
- (xv) the affiliation, association, or connexion with the University of any educational establishment wheresoever situated, to which the governing body of such educational establishment may consent;
- (xvi) the control and investment of the property of the University, including property held upon trust or subject to a condition;
- (xvii) the protection of the property of, or under the control of, the University from trespass or damage or misuse;
- (xviii) the regulation and control of access to and the use of land and buildings the property of, or under the control of, the University and of the conduct of persons thereon;
- (xix) the James Cook University of North Queensland Union: The powers, authorities, and obligations of the Union;
- (xx) for the carrying into effect of the several provisions, objects and purposes of the Act and generally for the control, management, good government and discipline of the University.

(2) The Council may by Statute repeal, rescind, revoke, alter, vary, amend or otherwise modify any Statute or part of a Statute.

(3) A Statute may authorize the Council to make rules for the carrying into effect of all or any of the provisions and objects of the Statute.

(4) All rules made pursuant to any Statute by the Council shall be of full force and effect as from the day on which they are promulgated in accordance with the Statute under which they are made or from such later date as may be specified in the rule, and the production of a verified copy of any such rule under the Common Seal of the University is sufficient evidence of the making and authenticity of the same in all courts and before all persons acting judicially.

(5) A Statute may impose or authorize the Council or any Officer of the University to impose a penalty not exceeding One hundred dollars for breach of any provision and provide for the recovery and enforcement of any such penalty.

(6) Where no other provision is made for the recovery or enforcement of a penalty imposed by or under the authority of a Statute, such penalty may be recovered or enforced by complaint in a summary way under *The Justices Acts 1886 to 1968*.

40. Statutes to be approved by Governor in Council. (1) Every Statute made by the Council shall be sealed with the common seal of the University, and shall be transmitted to the Minister to be dealt with in accordance with this section.

(2) The Minister shall submit every Statute to the Governor in Council.

(3) The Governor in Council may in his discretion approve any Statute.

(4) A Statute shall have no force and effect unless and until approved by the Governor in Council.

41. Regulations. (1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, providing for all matters, whether general or to meet particular cases, that may be

convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

(2) The Statutes made pursuant to this Act shall be read subject to the regulations made under this Act to the extent that where there is an inconsistency between a Statute and a regulation the latter shall prevail.

42. Publication of Proclamations, Orders in Council, regulations and Statutes. (1) Every Proclamation, Order in Council and regulation made under this Act and every Statute approved by the Governor in Council under this Act shall—

- (a) be published in the Gazette;
- (b) upon its publication in the Gazette, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication unless, in the case of any such Order in Council, regulation or Statute, a later date is specified in that or any other such Order in Council, regulation or Statute for its commencement when in such event it shall take effect from that later date; and
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication, if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Order in Council, regulation or Statute has been laid before it disallowing the same or part thereof, that Order in Council, regulation, Statute or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Order in Council, regulation or Statute.

PART VII—MISCELLANEOUS

43. No religious, political or racial test. No religious test shall be administered to any person in order to entitle him to be admitted as a student of the University, or to hold office therein, or to graduate thereat, or to enjoy any benefit, advantage, or privilege thereof, and no person shall be denied admission as a student of the University or be ineligible to hold office therein or to graduate thereat or to enjoy any benefit, advantage, or privilege thereof by reason of that person's sex, race or political views or beliefs.

44. Council to report annually. (1) The Council shall as soon as practicable after each thirty-first day of December prepare and transmit to the Governor in Council a report of the proceedings of the University during the year ended on that date.

(2) The report shall include a summary of the work, researches and investigations carried out by the University during the period covered by the report.

(3) The report shall contain a copy of the statement of accounts transmitted to the Minister pursuant to section 38 of this Act.

(4) A copy of every such report shall be laid before the Legislative Assembly as soon as practicable after it has been received by the Minister.

PART VIII—PROVISIONS RELATING TO THE UNIVERSITY COLLEGE OF TOWNSVILLE

45. Provisions relating to the University College of Townsville.

(1) Upon the commencement of this Act, the University College of Townsville shall cease to exist.

(2) Where by any testamentary disposition or otherwise property would pass to or for the benefit of the University College of Townsville if that institution were still in existence, such property shall pass to or for the benefit of the University and shall vest in the University or any trustees for it, as the case may be, but without prejudice to any other lawful claim of any person in relation to such property.

(3) All real and personal property which immediately before the commencement of this Act was held by or vested in the University of Queensland in trust for or on behalf of the University College of Townsville shall by virtue of this Act be divested from the University of Queensland and shall, as from such commencement, vest in the University and shall, subject to subsection (4) of this section, be applied by the University for the objects and purposes for which the University is established.

(4) If any property vested in the University by subsection (3) of this section is or shall be subject to any condition or trust, such property shall be held by the University subject to the conditions or trusts upon which it was held immediately before such vesting; and any reference in any such conditions or trusts to the University College of Townsville shall, as from the commencement of this Act, be read and construed as a reference to the University.

(5) All rights accruing or accrued to the University of Queensland in respect of any property vested in the University by operation of subsection (3) of this section are hereby vested in the University and may be enforced by the University.

(6) All liabilities of the University of Queensland in respect of any property vested in the University by operation of subsection (3) of this section may be enforced against the University.

46. Provisions for staff. (1) Every person who, immediately before the commencement of this Act, held any salaried office or employment in the University College of Townsville shall become and be an officer or employee of the University on such terms and conditions (including terms and conditions as to remuneration and duration of appointment, but not including terms and conditions prescribing the title, duties or status of the office or employment) as the Council may determine, but not less favourable than those upon which he so held that office or employment.

(2) Subsection (1) of this section shall not apply to or in respect of a person who immediately before the commencement of this Act held office in the University College of Townsville as a part-time lecturer, temporary lecturer, temporary tutor or temporary demonstrator, or to or

in respect of any other person who had not, before such commencement, been appointed by the Senate of the University of Queensland as a permanent member of the staff of the University College of Townsville.

(3) A person referred to in preceding provisions of this section shall not have any right to damages or compensation in respect of the termination, in consequence of this Act coming into operation, of his tenure of any office or employment in the University College of Townsville.