

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE

No. 17 of 1988

**An Act to amend the Queensland Institute of Medical
Research Act 1945-1984 and the Hospitals Act 1936-
1984 each in certain particulars**

[ASSENTED TO 7TH APRIL, 1988]

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 citation. This Act may be cited as the *Queensland Institute of Medical Research Act and Another Act Amendment Act 1988*.

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

PART I—PRELIMINARY (ss. 1 to 2);

PART II—AMENDMENTS OF QUEENSLAND INSTITUTE OF MEDICAL RESEARCH ACT 1945-1984 (ss. 3 to 22);

PART III—AMENDMENTS OF HOSPITALS ACT 1936-1984 (ss. 23 to 24).

PART II—AMENDMENTS OF QUEENSLAND INSTITUTE OF MEDICAL RESEARCH ACT 1945-1984

3. Citation. (1) In this Part the *Queensland Institute of Medical Research Act 1945-1984* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Queensland Institute of Medical Research Act 1945-1988*.

4. Amendment of Preamble. The Preamble to the Principal Act is amended by omitting from the first recital the word “peculiar” and substituting the words “of particular significance”.

5. Amendment of s. 2. Interpretation. Section 2 of the Principal Act is amended by—

(a) omitting the definition “Minister”;

(b) inserting in the definition “Director” after the word “Director”, where it occurs at the end of that definition, the following words:—

“ :

the term does not include any person appointed under section 11A with the designation of Associate Director”;

(c) inserting after the definition “Institute” the following definitions:—

“ “Minister” includes any Minister of the Crown for the time being performing the duties of the Minister;

“National Health and Medical Research Council” means the National Health and Medical Research Council of the Commonwealth, established by an Order on 17 September 1936 and reconstituted by an Order on 14 November 1986, as constituted from time to time;”.

6. Amendment of s. 3. Establishment of The Queensland Institute of Medical Research. Section 3 of the Principal Act is amended by in subsection (2)—

- (a) omitting the expression “(i)”;
- (b) omitting all words from and including the words “(ii) Without in anywise limiting” to and including the words “programme of clinical research.”.

7. Amendment of s. 5. Constitution of Council of The Queensland Institute of Medical Research. Section 5 of the Principal Act is amended by in subsection (1)—

- (a) omitting the word “ten” and substituting the word “twelve”;
- (b) omitting from subparagraph (iii) the words “and Home Affairs”;
- (c) omitting the expression “.” from where it occurs at the end of subparagraph (x) and substituting the expression “;”;
- (d) adding after subparagraph (x) the following subparagraph:—
 - “(xi) Two members nominated by the National Health and Medical Research Council who shall be appointed by the Governor in Council.”.

8. Amendment of s. 6. When seat of member to become vacant. Section 6 of the Principal Act is amended by omitting all words from and including “(e) Becomes” to and including “1938;”.

9. Amendment of s. 8. Meetings of Council. Section 8 of the Principal Act is amended by adding after subsection (7) the following subsections:—

“(8) Members of the Council shall be entitled to such fees and allowances as are approved by the Governor in Council save that a member of the Council who is an officer of the Public Service of Queensland shall not receive fees or allowances for attendance at a meeting of the Council during his ordinary hours of duty.

(9) (a) The Council may select persons to form an advisory committee or advisory committees to advise the Council on any matter within the scope of the Council’s functions that is referred to the committee or a particular committee by the Council.

(b) A person may be a member of such a committee whether or not he is a member of the Council.

(c) Members of a committee formed pursuant to this subsection shall be entitled to such fees and allowances as are approved by the Governor in Council save that a member of the committee who is an officer of the Public Service of Queensland shall not receive fees and allowances for attendance at a meeting of the committee during his ordinary hours of duty.”.

10. Amendment of s. 8B. Membership of Trust. Section 8B of the Principal Act is amended by omitting from subsection (1) the words

“five members” and substituting the words “not less than 5 nor more than 10 members”.

11. Repeal of and new s. 8E. Quorum. The Principal Act is amended by repealing section 8E and substituting the following section:—

“**8E. Quorum.** The quorum for the transaction of business of the Trust shall, when the number of persons appointed as members of the trust at the material time—

- (a) is an odd number, consist of a majority of the number of those members for the time being holding office as members;
- (b) is an even number, consist of half the number of those members for the time being holding office as members.”.

12. Repeal of s. 8J. Annual financial statements. The Principal Act is amended by repealing section 8J.

13. Repeal of s. 8K. Audit of accounts. The Principal Act is amended by repealing section 8K.

14. Amendment of s. 9. Council may carry out agreements. Section 9 of the Principal Act is amended by—

(a) in the first paragraph of the existing provisions omitting the words “the Brisbane and South Coast Hospitals Board and any other Hospitals Board constituted under “*The Hospitals Acts, 1936 to 1944*,” ” and substituting the words “any one or more of the Hospitals Boards constituted under the *Hospitals Act 1936-1988*,”;

(b) numbering the existing provisions (1);

(c) adding after the existing provisions as so numbered the following subsection:—

“(2) Notwithstanding the provisions of section 18—

(a) the Council has and always has had the power to include in any such agreement or arrangement a provision or provisions prescribing the manner in which the property in any discovery, invention or improvement in processes, apparatus and machines made by officers and employees of the respective parties to the agreement or arrangement shall be vested;

(b) where in respect of such an agreement or arrangement, whether made before or after the commencement of the *Queensland Institute of Medical Research Act and Another Act Amendment Act 1988*, such a provision—

(i) is included in the agreement or arrangement, it shall take effect according to its terms;

(ii) is not included in the agreement or arrangement, any such discovery, invention or improvement is

deemed to be vested jointly in the parties to the agreement or arrangement and shall be made available under such conditions and upon payment of such fees or royalties or otherwise as the Governor in Council determines, or as may be prescribed, having regard to the advice of the parties.”.

15. Repeal of and new s. 11. Staff of Institute. The Principal Act is amended by repealing section 11 and substituting the following section:—

“**11. Employees of Institute.** (1) The Council shall appoint a person to be the secretary of the Institute who shall have such duties as are prescribed or, so far as they are not prescribed, as the Council determines.

(2) The term of appointment of the secretary shall, subject to the terms and conditions of an agreement entered into in a particular case, be at the pleasure of the Council.

(3) The secretary shall be paid such salary and allowances and shall be employed on such terms and conditions as the Council from time to time determines.

(4) The Council may appoint and employ such other persons as it deems necessary to carry out the functions of the Institute.

Persons employed pursuant to this subsection shall be paid such remuneration as from time to time is fixed by any applicable award or determination of any industrial court or tribunal or, in so far as there is no such award or determination, by the Council.

(5) Officers of the Public Service of Queensland may be seconded to perform duties on behalf of the Institute.

(6) In addition to the employees appointed pursuant to this section the Council may appoint honorary research workers to carry out the functions of the Institute.

Any such worker during the term of his appointment may be designated in such style as the Council thinks fit having regard to the qualifications and experience of individual workers.

(7) While any honorary research worker or other appropriate prescribed person is actively engaged in the work of the Institute and while doing anything incidental thereto, he shall be deemed to be a worker within the meaning of the *Workers' Compensation Act 1916-1986* employed by the Council.

(8) The Council may in respect of an appropriate person confer a distinction on such person.

Any such distinction shall be conferred and held subject to any provisions that may be adopted by the Council by way of resolution.”.

16. Existing staff of Institute. The repeal of section 11 of the Principal Act and the substitution of a new section in its stead by

section 15 of this Act shall not be construed to effect the employment, status, entitlements or privileges of any person engaged in performing duties on behalf of the Institute at the commencement of this Act.

17. New ss. 11A and 11B. The Principal Act is amended by inserting after section 11 the following sections:—

“11A. Appointment of personnel for joint research projects.

(1) The Council may with the approval of the Governor in Council appoint one or more persons with appropriate qualifications to take part in joint research projects, in connexion with the work of the Institute, involving the Institute and other institutions involved in research in any branch or branches of medical science.

(2) Any such appointment shall be made for such period and subject to such terms and conditions as are approved by the Governor in Council.

(3) A person appointed under subsection (1) (by whatever designation called) shall not be taken by reason only of that appointment—

(a) to hold any office on the Council or the Trust;

or

(b) to have any power to bind the Council or the Trust.

11B. Superannuation scheme or arrangement. (1) The Council is authorized and is deemed always to have been authorized to establish or participate in a scheme or arrangement that secures superannuation benefits for employees and research workers appointed or employed by the Council.

(2) On and after the passing of the *Queensland Institute of Medical Research Act and Another Act Amendment Act 1988* it shall not be competent to the Council—

(a) to establish or to commence to participate in a scheme or arrangement such as is referred to in subsection (1);

(b) to amend a scheme or arrangement such as is referred to in subsection (1) established by the Council;

or

(c) to continue to participate in a scheme or arrangement such as is referred to in subsection (1) that is amended subsequently to the passing of that Act and subsequently to the Council's commencing to participate therein,

unless the approval of the Governor in Council has first been obtained to the establishment, participation, amendment or, as the case may be, continued participation.

(3) A reference to a scheme or arrangement in subsections (2) (b) or (2) (c) includes a reference to any such scheme or arrangement which the Council has established before or in

which the Council was participating immediately before the commencement of the *Queensland Institute of Medical Research Act and Another Act Amendment Act 1988*.”

18. Repeal of and new s. 13. Trust fund and financial provisions, and new s. 13A. The Principal Act is amended by repealing section 13 and substituting the following sections:—

“**13. Funds and financial provisions.** (1) For the purposes of the *Financial Administration and Audit Act 1977-1985* the Council shall be a statutory body and not a department, and the provisions of that Act apply to and in respect of the financial administration of the Council and the Trust to the extent provided by that Act.

(2) There shall be established and kept, for the purposes of this Act—

(a) a General Fund;

and

(b) such other funds as may, from time to time, be directed by way of Minister’s Directions issued pursuant to section 46D of the *Financial Administration and Audit Act 1977-1985*.

The General Fund referred to in subparagraph (a) and the other funds referred to in subparagraph (b) shall at all times be kept separate and distinct and a separate and distinct bank account shall be kept for each fund.

(3) For the purpose of defraying the charges and expenses connected with the carrying on, management and control of the Institute there shall be paid into the General Fund out of Consolidated Revenue an amount appropriated by Parliament from time to time for the purpose.

(4) On the establishment of the General Fund referred to in subsection (2) (a), the Trust Fund kept at the Treasury and known as The Queensland Institute of Medical Research Trust Fund shall be closed and all moneys standing to the credit of that Trust Fund shall be credited to the General Fund.

(5) All fees and revenue earned by the Council and all other money received by the Council from any source for the purposes of the Institute shall be paid—

(a) into the General Fund;

or

(b) where other funds have been established pursuant to subsection (2) (b), into such other funds in accordance with the Directions of the Minister.

(6) The General Fund shall be applied by the Council in and for the purposes of this Act and in and towards the payment of all expenses necessarily incurred in carrying this Act into

execution and in doing and performing any acts, matters and things that the Council is by this Act empowered or required to do or perform.

(7) The other funds established pursuant to subsection (2) (b) shall be applied by the Council in accordance with the directions of the Minister.

13A. Budget. (1) Before 31 August in each year or such later date as the Minister may on the application of the Council permit, the Council shall frame and adopt a budget for the receipts and disbursements of the Council for each year, in the form and manner prescribed, in respect of the General Fund maintained by the Council.

(2) If at the end of any year for which a budget is framed there is a surplus or deficit remaining that surplus or deficit shall be carried forward and taken into account in framing the budget for the next following year.

(3) Every such budget shall be subject to the approval of the Minister and until so approved shall be of no force or effect save that any disbursement of the Council necessarily made in any year prior to the adoption of the budget framed for that year is hereby authorized and shall be shown as a disbursement in the budget framed for that year.

(4) At the close of each year all authorizations of expenditure and votes of expenditure for that year shall lapse. A vote so lapsing may be re-voted.

(5) If the Council makes a disbursement in any year from any of its funds that has not been provided for in the approved budget relating to that fund for that year, then, except where the disbursement has been made in emergent or extraordinary circumstances, the members of the Council who knowingly voted for such expenditure shall be jointly and severally liable to repay to the Council the amount of the disbursement and such amount may be recovered by action in a court of competent jurisdiction as a debt due and owing by all and each of such members to the Council.

(6) Until its first budget is framed by the Council and is approved by the Minister, the Council may continue to receive and disburse moneys as provided for by the budget of the Council last framed by the Council before the commencement of this Act and that budget shall continue to be of force and effect and shall be deemed to be for the period aforesaid the duly approved budget of the Council under this Act.

Such budget may be varied, if required, by the Minister on the recommendation of the Council.”.

19. Amendment of s. 15. Requirements in respect of property given, devised or bequeathed and financial provisions generally. Section 15 of the Principal Act is amended by—

(a) in the note to the section, omitting the words “and financial provisions generally”;

(b) repealing subsection (1).

20. Amendment of s. 18. Discoveries and inventions. Section 18 of the Principal Act is amended by omitting the word "All" and substituting the words "Subject to section 9, all".

21. Repeal of s. 20. Annual report. The Principal Act is amended by repealing section 20.

22. Amendment of s. 21. Section 21 of the Principal Act is amended by repealing subsections (4) and (5).

PART III—AMENDMENTS OF HOSPITALS ACT 1936-1984

23. Citation. (1) In this Part the *Hospitals Act 1936-1984* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Hospitals Act 1936-1988*.

24. Amendment of s. 26. Functions of Board. Section 26 of the Principal Act is amended by adding after subsection (9) the following subsection:—

“(10) Without limiting the generality of its powers and authorities, the Board is empowered to enter into and carry out agreements or arrangements, for the purposes prescribed by section 17 of the *Queensland Institute of Medical Research Act 1945-1988*, with The Council of the Queensland Institute of Medical Research, the University of Queensland and such other bodies as shall from time to time be determined by Order in Council.

All such agreements and arrangements shall be subject to the approval of the Minister.”.