

Queensland



**EDUCATION  
(MISCELLANEOUS  
AMENDMENTS) ACT 2002**

**Act No. 75 of 2002**



# Queensland



## EDUCATION (MISCELLANEOUS AMENDMENTS) ACT 2002

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# Queensland



## **Education (Miscellaneous Amendments) Act 2002**

### **Act No. 75 of 2002**

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***An Act to amend the *Central Queensland University Act 1998*,  
*Education (Accreditation of Non-State Schools) Act 2001*, *Education  
(General Provisions) Act 1989*, *Education (Overseas Students) Act 1996*,  
*Education (Teacher Registration) Act 1988*, *Griffith University Act 1998*,  
*James Cook University Act 1997*, *Queensland University of Technology  
Act 1998*, *University of Queensland Act 1998*, *University of Southern  
Queensland Act 1998* and *University of the Sunshine Coast Act 1998****

***[Assented to 13 December 2002]***

The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### 1 Short title

This Act may be cited as the *Education (Miscellaneous Amendments) Act 2002*.

### 2 Commencement

Sections 6 and 28 to 33 are taken to have commenced on 1 January 2002.

## PART 2—AMENDMENT OF CENTRAL QUEENSLAND UNIVERSITY ACT 1998

### 3 Act amended in pt 2

This part amends the *Central Queensland University Act 1998*.

### 4 Insertion of new s 20A

After section 20—

*insert—*

#### **‘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 student association to appoint a student to the office at a meeting of the council of the student association; 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).’.

## 5 Amendment of s 21 (Failure to elect or appoint elected members)

(1) Section 21—

*insert—*

‘(1A) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).’.

(2) Section 21(1A) to (3)—

*renumber* as section 21(2) to (4).

(3) Section 21—

*insert—*

‘(5) In this section—

“entity” does not include the council.’.

### **PART 3—AMENDMENT OF EDUCATION (ACCREDITATION OF NON-STATE SCHOOLS) ACT 2001**

#### **6 Act amended in pt 3**

This part amends the *Education (Accreditation of Non-State Schools) Act 2001*.

#### **7 Amendment of s 6 (Meaning of “non-State school”)**

(1) Section 6(1)(a), ‘and primary education’—

*omit.*

(2) Section 6(2)—

*insert—*

‘(aa) an international educational institution under the *Education (General Provisions) Act 1989*, section 144(1);<sup>1</sup>’.

#### **8 Amendment of s 12 (Type of education)**

(1) Section 12(1)(a), ‘and primary education’—

*omit.*

(2) Section 12(2)—

*omit, insert—*

---

1 *Education (General Provisions) Act 1989*, section 144 (Restriction on establishment of places for teaching overseas curriculum)

‘(2) A school may be provisionally accredited, or accredited, to provide preschool education only if the school is also provisionally accredited, or accredited, to provide primary education for at least years 1 to 3.’.

(3) Section 12(3), ‘and primary education’—

*omit.*

## **9 Insertion of new s 12A**

After section 12—

*insert—*

### **‘12A Provisional accreditation, or accreditation, is for 1 type of education**

‘(1) Each provisional accreditation, or accreditation, of a school must be for 1 type of education only.

‘(2) However, a school may be provisionally accredited, or accredited, to provide more than 1 type of education.’.

## **10 Amendment of s 23 (Form of certificate of provisional accreditation)**

Section 23—

*insert—*

‘(4) If a school is provisionally accredited for more than 1 type of education, a single certificate of provisional accreditation may relate to all the types of education concerned.’.

## **11 Amendment of s 35 (Form of certificate of accreditation)**

Section 35—

*insert—*

‘(4) If a school is accredited for more than 1 type of education, a single certificate of accreditation may relate to all the types of education concerned.’.

**12 Insertion of ch 2, pt 2, div 3, sdiv 1, hdg**

Chapter 2, part 2, division 3, before section 36—

*insert—*

***‘Subdivision 1—Assessment when school first starts to operate within a sector of schooling’.***

**13 Amendment of s 36 (Application of div 3)**

(1) Section 36, heading, ‘div 3’—

*omit, insert—*

**‘sdiv 1’.**

(2) Section 36, ‘division’—

*omit, insert—*

‘subdivision’.

**14 Insertion of new ch 2, pt 2, div 3, sdiv 2**

Chapter 2, part 2, division 3, after section 38—

*insert—*

***‘Subdivision 2—Assessment when school starts to operate within a sector of schooling at new site***

**‘38A Application of sdiv 2**

‘This subdivision applies to a school that has started to operate, within a sector of schooling, at a site (a “**new site**”) at which the school has not previously operated within the sector of schooling.

**‘38B Assessment of school**

‘(1) The board must after the assessment day start an assessment of the school in relation to the provision of education within the sector of schooling at the new site, to decide whether the school is complying with the accreditation criteria.

‘(2) The board may conduct not more than 2 assessments of the school under this section.

‘(3) In this section—

“assessment day” means—

- (a) a day agreed to by the board and the school’s governing body; or
- (b) the day, of which the board has notified the governing body, that is—
  - (i) at least 6 months after the day the school starts to operate within the sector of schooling at the new site; and
  - (ii) within the last year of schooling for the sector of schooling at the new site.

### ‘38C Report by assessor

‘(1) To assess a school under section 38B, the board must obtain a written report from an assessor about whether the school is complying with the accreditation criteria.

‘(2) To prepare the report, the assessor may exercise the assessor’s powers under chapter 5, part 3.’.

### 15 Amendment of s 42 (Demonstration of compliance)

Section 42(1), ‘documents’—

*omit, insert—*

‘information or a document’.

### 16 Amendment of ch 2, pt 3, div 2, hdg (Changes in attributes of provisional accreditation)

Chapter 2, part 3, division 2, heading, after ‘*accreditation*’—

*insert—*

‘*on application by school’s governing body*’.

**17 Insertion of new ch 2, pt 3, div 2A**

Chapter 2, part 3, after section 58—

*insert—*

***‘Division 2A—Other changes in attributes of provisional accreditation*****‘58A Notice about change in attribute of provisional accreditation**

‘(1) This section applies if—

- (a) the board reasonably believes an attribute of provisional accreditation applying to a school has changed; and
- (b) the school’s governing body has not given the board an application about the change under division 2.

‘(2) The board may give the school’s governing body a notice (a “**show cause notice**”) stating the following—

- (a) details about the attribute of provisional accreditation the board reasonably believes has changed;
- (b) an outline of the facts and circumstances forming the basis for the board’s belief;
- (c) the change the board proposes making to the attribute of provisional accreditation applying to the school;
- (d) an invitation to the governing body to show within a stated period (the “**show cause period**”) why the proposed change should not be made.

‘(3) The show cause period must be a period ending at least 30 days after the notice is given to the governing body.

**‘58B Representations about show cause notice**

‘(1) The governing body may make written representations about the show cause notice to the board in the show cause period.

‘(2) The board must consider all written representations (the “**accepted representations**”) made under subsection (1).



**‘58C Ending show cause process without further action**

‘If, after considering the accepted representations for the show cause notice, the board no longer believes the attribute of provisional accreditation has changed, the board—

- (a) must not take further action about the show cause notice; and
- (b) must, as soon as practicable, give notice to the school’s governing body that no further action is to be taken about the show cause notice.

**‘58D Changing attribute of provisional accreditation**

‘(1) This section applies if—

- (a) after considering the accepted representations for the show cause notice, the board still believes the attribute has changed; or
- (b) there are no accepted representations for the show cause notice.

‘(2) The board may decide to change the attribute.

‘(3) The board must, as soon as practicable, give an information notice about the decision to the school’s governing body.

‘(4) The decision does not take effect until—

- (a) the last day to apply for a review of the decision; or
- (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.

**‘58E Return of certificate of provisional accreditation to board**

‘(1) This section applies if—

- (a) the board decides to change an attribute of provisional accreditation applying to a school and gives an information notice about the decision to the school’s governing body; and
- (b) the attribute of provisional accreditation is stated in the school’s certificate of provisional accreditation; and
- (c) the decision takes effect under section 58D(4).

‘(2) The governing body must return the certificate of provisional accreditation to the board within 14 days after the decision takes effect, unless the governing body has a reasonable excuse.

Maximum penalty—20 penalty units.

‘(3) On receiving the certificate, the board must issue a replacement certificate of provisional accreditation to the governing body stating details of the change.

‘(4) Failure to issue a replacement certificate does not effect the validity of the change.

‘(5) However, subsection (2) does not apply if the governing body made an application to have the decision reviewed under chapter 4 and was successful in having the decision overturned.

### **‘58F Effect of change on application for accreditation**

‘(1) This section applies if a provisionally accredited school’s governing body receives an information notice under section 58D(3).

‘(2) The application for the accreditation of the school, yet to be decided by the board, is taken to be amended to accord with the decision stated in the information notice.

‘(3) However, subsection (2) does not apply if the governing body made an application to have the decision reviewed under chapter 4 and was successful in having the decision overturned.’.

## **18 Amendment of s 59 (Application of div 2)**

(1) Section 59, heading, ‘**div 2**’—

*omit, insert—*

**‘divs 2 and 2A’.**

(2) Section 59, ‘division 2, other than section 58, applies’—

*omit, insert—*

‘divisions 2 and 2A, other than sections 58 and 58F, apply’.

## **19 Amendment of ch 2, pt 4, hdg (Cancellation of accreditations or provisional accreditations)**

Chapter 2, part 4, heading, after ‘**CANCELLATION**’—

*insert—*

**‘AND SURRENDER’.**

**20 Amendment of s 63 (Grounds for cancellation)**

(1) Section 63, ‘accreditation—’—

*omit, insert—*

‘accreditation for a type of education—’.

(2) Section 63(g)—

*renumber* as section 63(h).

(3) Section 63—

*insert—*

‘(g) the school has not provided the type of education for at least 4 consecutive months;’.

(4) Section 63—

*insert—*

‘(2) Also, it is a ground for cancelling a school’s accreditation to provide preschool education if the school stops providing primary education for years 1 to 3.’.

**21 Amendment of s 70 (Grounds for cancellation)**

(1) Section 70, ‘accreditation—’—

*omit, insert—*

‘accreditation for a type of education—’.

(2) Section 70—

*insert—*

‘(e) the school has not provided the type of education for any 4 consecutive months after the schools student-intake day.’.

(3) Section 70—

*insert—*

‘(2) Also, it is a ground for cancelling a school’s provisional accreditation to provide preschool education if the school stops providing primary education for years 1 to 3.’.

**22 Insertion of new ch 2, pt 4, div 4**

Chapter 2, part 4, after section 70—

*insert—*

***‘Division 4—Surrender of accreditations or provisional accreditations*****‘70A Surrender**

‘(1) A school’s governing body may, by notice given to the board, surrender an accreditation or provisional accreditation of the school.

‘(2) The surrender takes effect on the later of the following—

- (a) the end of 7 days after the day the notice is given;
- (b) a day stated in the notice for the surrender.’.

**23 Amendment of s 76 (Public notification)**

(1) Section 76(8)—

*renumber* as section 76(9).

(2) Section 76—

*insert—*

‘(8) However, the applicant need not comply with a notice requirement under this section for an application (the “**exempt application**”) if the committee has advised the applicant that it is satisfied the exempt application is substantially similar to—

- (a) another application for which a person has complied with the notice requirement within 3 years before the exempt application was made; or
- (b) an application—
  - (i) made under the *Education (General Provisions) Act 1989*, section 134B, as in force from time to time before 1 January 2002, within 3 years before the exempt application was made; and
  - (ii) for which a person has complied with the requirements under that Act about giving notice of the application.’.

**24 Amendment of s 77 (Required content of catchment area notice)**

Section 77(2), from ‘30 days’—

*omit, insert—*

‘35 days after making the application.’

**25 Replacement of s 78 (Notice of compliance or noncompliance with notice requirements)**

Section 78—

*omit, insert—*

**‘78 Notice of compliance or noncompliance with notice requirements**

‘(1) The applicant must, within 21 days after making an application to which this part applies, give the committee a notice stating—

- (a) whether or not the applicant has, for the application, complied with the notice requirements under section 76; and
- (b) the name and address of each person, if any, to whom the catchment area notice was given under section 76(2)(a) or (4)(a).

‘(2) If the catchment area notice was published in a newspaper under section 76(2)(b) or (4)(b), a copy of the page of the newspaper containing the catchment area notice must be attached to the notice.

‘(3) Subject to section 84, the committee may only make a recommendation, under section 54,<sup>2</sup> section 54 as applied by section 59, or section 85, about the application if it is satisfied the applicant has complied with the notice requirements under section 76 to the extent they apply to the applicant.’

**26 Amendment of s 84 (Substantial compliance with notice requirements may be accepted)**

Section 84(1), after ‘76’—

*insert—*

‘to the extent they apply to the applicant’.

---

2 Section 54 (Consideration by committee of effect on eligibility for Government funding for school)

**27 Insertion of new s 99A**

After section 99—

*insert—*

**‘99A Effect of change of particular attributes**

‘(1) This section applies to a school if—

- (a) an attribute of the school’s provisional accreditation or accreditation is changed under section 58D<sup>3</sup> or section 58D as applied by section 59; and
- (b) because of the change, the school is no longer provisionally accredited or accredited for an aspect of the operation of the school for which the school’s governing body is eligible for Government funding.

‘(2) The eligibility for Government funding for the aspect is taken to be withdrawn when the change takes effect under this Act.’.

**28 Amendment of s 186 (School in receipt of subsidy under General Provisions Act)**

Section 186—

*insert—*

‘(3A) Subsection (3B) applies if, immediately before the commencement, there was in force a planning approval under the General Provisions Act for the school for aspects of the operation of the school (the “**planning approval aspects**”) other than the aspects as under the categorisation or provisional categorisation.

‘(3B) The school is also taken to be a school, the governing body of which is eligible for Government funding for the planning approval aspects.’.

---

3 Section 58D (Changing attribute of provisional accreditation)

**29 Amendment of s 187 (Existing application for categorisation as a school in receipt of subsidy)**

Section 187—

*insert—*

‘(5A) Subsection (5B) applies if, immediately before the commencement, there was in force a planning approval under the General Provisions Act for the school for aspects of the operation of the school (the “**planning approval aspects**”) other than the aspects to which the provisional categorisation or categorisation relates.

‘(5B) The school is also taken to be a school, the governing body of which is eligible for Government funding for the planning approval aspects.’.

**30 Replacement of s 194 (Application of div 1)**

Section 194—

*omit, insert—*

**‘194 Application of div 1**

‘This division applies to a school for which, immediately before the commencement, there was in force a planning approval under the General Provisions Act.’.

**31 Amendment of s 197 (Application to change attribute of provisional accreditation)**

Section 197(1)(b), ‘6 months’—

*omit, insert—*

‘18 months’.

**32 Amendment of s 198 (Application to change attribute of accreditation)**

Section 198(1)(b), ‘6 months’—

*omit, insert—*

‘18 months’.

**33 Amendment of s 200 (Application for accreditation)**

Section 200(1), ‘6 months’—

*omit, insert—*

‘18 months’.

**34 Insertion of new ch 8**

After section 217—

*insert—*

**‘CHAPTER 8—TRANSITIONAL PROVISIONS FOR  
EDUCATION (MISCELLANEOUS AMENDMENTS)  
ACT 2002**

**‘218 Definitions for ch 8**

‘In this chapter—

**“commencement”** means commencement of this section.

**“post-amended Act”** means this Act as in force immediately after the commencement of the *Education (Miscellaneous Amendments) Act 2002*, section 8.

**“pre-amended Act”** means this Act as in force immediately before the commencement of the *Education (Miscellaneous Amendments) Act 2002*, section 8.

**‘219 Provisional accreditation for particular type of education**

‘(1) This section applies to a school that, immediately before the commencement, is provisionally accredited for the type of education mentioned in section 12(1)(a) of the pre-amended Act.

‘(2) The school is taken to be provisionally accredited for the types of education mentioned in section 12(1)(a) and (b) of the post-amended Act.

‘(3) Also, for this Act the school’s governing body is taken to have made application, under section 16, to the board for the accreditation of the school for each type of education mentioned in section 12(1)(a) and (b) of the post-amended Act.



**‘220 Accreditation for particular type of education**

‘(1) This section applies to a school that, immediately before the commencement, is accredited for the type of education mentioned in section 12(1)(a) of the pre-amended Act.

‘(2) The school is taken to be accredited for the types of education mentioned in section 12(1)(a) and (b) of the post-amended Act.

**‘221 Application for accreditation for particular type of education**

‘(1) This section applies to an application for the accreditation of a school for the type of education mentioned in section 12(1)(a) of the pre-amended Act if, immediately before the commencement, the application has not been decided under chapter 2, part 2, division 2, subdivision 2.<sup>4</sup>

‘(2) For this Act, the application is taken to be a separate application for each type of education mentioned in section 12(1)(a) and (b) of the post-amended Act.’.

**PART 4—AMENDMENT OF EDUCATION (GENERAL PROVISIONS) ACT 1989****35 Act amended in pt 4**

This part amends the *Education (General Provisions) Act 1989*.

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4 Chapter 2 (Accreditation of schools), part 2 (Accreditations), division 2 (Applications for accreditations), subdivision 2 (Provisional accreditation of schools)

### 36 Amendment of s 144 (Restriction on establishment of places for teaching overseas curriculum)

(1) Section 144(1)—

*insert—*

‘**“approved entity”**, of a country, means an entity the Minister reasonably believes ordinarily authorises persons to teach primary or secondary curriculums of the country.

**“criminal history”**, of a person, means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

(a) despite sections 6 and 9<sup>5</sup> of that Act, includes a conviction of the person to which any of the sections applies; and

(b) despite section 5<sup>6</sup> of that Act, includes a charge made against the person for an offence.’.

(2) Section 144—

*insert—*

‘(2A) Before recommending that the Governor in Council give an approval to establish or conduct an international educational institution, the Minister must have regard to the financial viability of the institution.

‘(2B) Subsection (2A) does not limit the matters the Minister may have regard to in deciding whether to make a recommendation.’.

(3) Section 144—

*insert—*

‘(3A) Without limiting subsection (3), the following conditions apply to an approval for an international educational institution—

(a) a person who teaches at the institution must be authorised, under a law, or by an approved entity, of the country in which the institution’s overseas curriculum is ordinarily offered, to teach the curriculum;

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5 *Criminal Law (Rehabilitation of Offenders) Act 1986*, sections 6 (Non-disclosure of convictions upon expiration of rehabilitation period) and 9 (Duty to disregard certain convictions)

6 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 5 (Matter excluded from criminal history)

- (b) a person must not teach at the institution if the Minister considers that the person may pose a risk to the safety of children at the institution;
- (c) a student who successfully completes the institution's overseas curriculum must be eligible to receive an academic award for its completion from an entity of the country in which the curriculum is ordinarily offered;
- (d) the institution must have written guidelines about the appropriate conduct of its staff and students that accord with legislation applying in the State about the care or protection of children.

‘**(3B)** The conditions of an approval, other than the conditions mentioned in subsection (3A), must be stated on the approval.

‘**(3C)** For subsection (3A)(b), the Minister may ask the commissioner of the police service for a written report about the criminal history of a person who teaches at an international educational institution.

‘**(3D)** If asked by the Minister, the commissioner of the police service must give the Minister a written report about the criminal history of the person, including the criminal history in the commissioner's possession or to which the commissioner has access.’

### **37 Insertion of new pt 12**

After section 166—

*insert—*

## **‘PART 12—TRANSITIONAL PROVISION FOR COMPULSORY EDUCATION**

### **‘167 Transitional provision for compulsory education**

‘**(1)** A parent of a child being of the age of compulsory attendance is taken to comply with section 114 if the child is enrolled at a prescribed State school or non-State school, and attending the school, on every school day, for a preparatory trial year of instruction.

‘**(2)** In this section—

**“preparatory trial year of instruction”** means a program of instruction under a preschool guideline, being developed under the *Education*

(*Queensland Studies Authority*) Act 2002, for preparing a child for primary education.

“**prescribed State school or non-State school**” means a State school or non-State school prescribed under a regulation.’.

## **PART 5—AMENDMENT OF EDUCATION (OVERSEAS STUDENTS) ACT 1996**

### **38 Act amended in pt 5**

This part amends the *Education (Overseas Students) Act 1996*.

### **39 Amendment of s 8 (Statutory conditions)**

Section 8—

*insert—*

‘**(1A)** Also, it is a condition of a registered provider’s registration that the registered provider allows the chief executive to enter, at any reasonable time, a place at which the registered provider delivers, or intends to deliver, a course to inspect the place under section 17A(2).’.

### **40 Insertion of new pt 2, div 6**

Part 2, after section 17—

*insert—*

#### *‘Division 6—Inspection of places*

#### **‘17A Inspection of particular places**

‘**(1)** This section applies to a place at which a registered provider delivers, or intends to deliver, a course.

‘**(2)** The chief executive may inspect the place at any reasonable time to ensure—

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7 Section 17A (Inspection of particular places)

- (a) it is suitable for delivering the course; and
- (b) the staffing and resources at the place are adequate for delivering the course.

‘(3) If the chief executive inspects the place, the registered provider must pay to the chief executive the fee prescribed under a regulation for the inspection.’.

## **PART 6—AMENDMENT OF EDUCATION (TEACHER REGISTRATION) ACT 1988**

### **41 Act amended in pt 6**

This part amends the *Education (Teacher Registration) Act 1988*.

### **42 Amendment of s 50 (Board may conduct inquiry about certain persons)**

Section 50(3), from ‘only if’—

*omit, insert—*

‘only if—

- (a) the board is reasonably satisfied that, because of the nature of the events the subject of the proposed inquiry, it is in the public interest for the board to inquire into the events; and
- (b) the events happened while the person was registered.’.

## **PART 7—AMENDMENT OF GRIFFITH UNIVERSITY ACT 1998**

### **43 Act amended in pt 7**

This part amends the *Griffith University Act 1998*.

**44 Amendment of s 5 (Functions of university)**

(1) Section 5(b)—

*omit, insert—*

‘(b) to provide facilities for study and research generally, and in particular, for people in the cities of Brisbane, Gold Coast and Logan; and

(ba) to encourage study and research; and’.

(2) Section 5(d), after ‘community’—

*insert—*

‘generally, and in particular, the people in the cities of Brisbane, Gold Coast and Logan’.

**45 Amendment of s 14 (Appointed members)**

Section 14(1), ‘6’—

*omit, insert—*

‘8’.

**46 Amendment of s 15 (Elected members)**

(1) Section 15(1), ‘14’—

*omit, insert—*

‘12’.

(2) Section 15(2)(d), ‘(b), (c) or (e)’—

*omit, insert—*

‘(b) or (c)’.

(3) Section 15(2)(e)—

*omit.*

(4) Section 15(4) and (5)—

*omit.*

**47 Insertion of new s 20A**

After section 20—

*insert—*

**‘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) The council must appoint to the office a person who is eligible to be elected to the office under section 15.

‘(5) A person appointed under subsection (2) or (4) is taken to have been elected under section 15.’.

**48 Amendment of s 21 (Failure to elect or appoint elected members)**

(1) Section 21, heading, ‘**or appoint**’—

*omit.*

(2) Section 21(1), ‘or appoint’—

*omit.*

(3) Section 21—

*insert—*

‘(1A) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).’.

(4) Section 21(2), ‘or appointed’—

*omit.*

(5) Section 21(3)—

*omit.*

(6) Section 21(1A) and (2)—

*renumber* as section 21(2) and (3).

#### **49 Replacement of s 35 (Composition)**

Section 35—

*omit, insert—*

#### **‘35 Membership**

‘The persons who are eligible to be members of the university student council are—

- (a) undergraduate students, other than students studying at the Gold Coast campus of the university; and
- (b) persons eligible for membership under the university student council’s constitution.’.

#### **50 Replacement of pt 4, div 3 (Colleges)**

Part 4, division 3—

*omit, insert—*

*‘Division 3—Gold Coast Student Guild*

#### **‘39 Establishment**

‘(1) The Gold Coast Student Guild is established.

‘(2) The student guild—



- (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.

#### **‘40 Membership**

‘The persons who are eligible to be members of the student guild are—

- (a) students studying at the Gold Coast campus of the university; and
- (b) persons eligible for membership under the student guild’s constitution.

#### **‘41 Role**

‘(1) The student guild has the role and powers stated in its constitution.

‘(2) The student guild also has the role and powers decided by the council.

‘(3) However, the student guild is not the employee or agent of the council.

#### **‘42 General powers**

‘Without limiting section 41, the student guild has all the powers of an individual, including, for example, the power to acquire, hold, dispose of, and deal with, property.

#### **‘43 Constitution**

‘(1) The student guild must have a written constitution.

‘(2) The student guild’s constitution, and each amendment of the constitution, must be submitted to the council for approval.

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

**51 Amendment of s 44A (Excluded matters for Corporations legislation)**

(1) Section 44A(1), ‘Each of the following’—

*omit, insert—*

‘The convocation’.

(2) Section 44A(1), from ‘Act—’—

*omit, insert—*

‘Act.’.

(3) Section 44A(2)(b)—

*omit, insert—*

‘(b) the student guild.’.

**52 Amendment of s 61 (Making of university statutes)**

(1) Section 61(2)(g)—

*omit.*

(2) Section 61(2)(h) to (j)—

*renumber* as section 61(2)(g) to (i).

**53 Amendment of s 63 (University statutes affecting university student council or college student body)**

(1) Section 63, heading, ‘college student body’—

*omit, insert—*

‘**student guild**’.

(2) Section 63(1), ‘a college student body’s’—

*omit, insert—*

‘the student guild’s’.

(3) Section 63(1)(a) and (b), (2) and (4), ‘college student body’—

*omit, insert—*

‘student guild’.

**54 Insertion of new pt 8**

After section 69—

*insert—*

**‘PART 8—TRANSITIONAL PROVISIONS FOR  
EDUCATION (MISCELLANEOUS AMENDMENTS) ACT  
2002**

*‘Division 1—Preliminary*

**‘70 Definitions for pt 8**

**“college”** means a college established under section 39 of the pre-amended Act.

**“commencement”** means the commencement of the section in which the term is used.

**“Gold Coast college”** means the college established under the *Griffith University Statute No. 1.1 (Establishment of a College of Griffith University) 1999*.

**“Gold Coast student body”** means the college student body established under the *Griffith University Statute No. 1.4 (Establishment of a Student Representative Guild of a College of Griffith University at the Gold Coast) 1999*.

**“pre-amended Act”** means this Act as in force before the commencement of the *Education (Miscellaneous Amendments) Act 2002*, part 7.

*‘Division 2—Provisions about the council*

**‘71 Conduct of ballot for elected members**

‘(1) A ballot under section 15(3) for elected members (**“new members”**) of the council must be conducted as soon as practicable after the commencement.

‘(2) Subsection (3) applies to a person who is an elected member immediately before the ballot is conducted.

‘(3) Despite section 19(1) and (2), the term of office of the member ends at the end of the day the new member who is the member’s successor is elected under the ballot.

‘(4) No compensation is payable to a person because of subsection (3).

## **‘72 When particular members’ term of office ends**

‘(1) This section applies to a person who, immediately before the commencement, was a member mentioned in section 15(2)(e) of the pre-amended Act.

‘(2) Despite section 19(2) of the pre-amended Act, the term of office of the member ends on the commencement.

‘(3) No compensation is payable to a person because of subsection (2).

## ***‘Division 3—Provisions about Gold Coast student body***

### **‘73 Continuation of Gold Coast student body**

‘The Gold Coast student body is continued as the student guild.

### **‘74 Student guild is legal successor**

‘The student guild is the successor in law of the Gold Coast student body.

### **‘75 Continuation of constitution**

‘(1) Subsection (2) applies until the student guild’s constitution is approved under section 43(3).

‘(2) The Gold Coast student body’s constitution in force immediately before the commencement is taken to be the student guild’s constitution.

### **‘76 Board members and office holders continue in office**

‘(1) This section applies to a person who, immediately before the commencement—

- (a) is a member of the board of the Gold Coast student body; or

(b) holds an office under the Gold Coast student body's constitution.

‘(2) Subject to the student guild's constitution, the person continues—

- (a) as a member of the board of the student guild; or
- (b) to hold the office under the student guild's constitution.

#### **‘77 Assets and liabilities etc.**

‘On the commencement—

- (a) the assets and liabilities of the Gold Coast student body immediately before the commencement vest in the student guild; and
- (b) any contracts entered into by or for the Gold Coast student body and all guarantees, undertakings and securities given by, for or to the Gold Coast student body, in force immediately before the commencement, are taken to have been entered into or given by, for or to the student guild and may be enforced against or by the student guild.

#### **‘78 Proceedings**

‘(1) This section applies to a proceeding that—

- (a) was taken by or against either of the following before the commencement—
  - (i) the Gold Coast student body;
  - (ii) a person who held an office on the Gold Coast student body in the person's capacity as an office holder of the Gold Coast student body.

‘(2) From the commencement, the proceeding may be continued and finished by or against the student guild.

#### **‘79 References to Gold Coast student body**

‘A reference in an Act or document to the Gold Coast student body may, if the context permits, be taken as a reference to the student guild.

***‘Division 4—Provision about colleges*****‘80 Dissolution of colleges**

‘On the commencement, each college is dissolved.’.

**55 Amendment of sch 2 (Dictionary)**

(1) Schedule 2, definitions “college”, “college student body” and “Gold Coast college”—

*omit.*

(2) Schedule 2—

*insert—*

‘**“student guild”** means the Gold Coast Student Guild established under section 39.’.

(3) Schedule 2, definition “elected member”, ‘or appointed’—

*omit.*

**PART 8—AMENDMENT OF JAMES COOK  
UNIVERSITY ACT 1997****56 Act amended in pt 8**

This part amends the *James Cook University Act 1997*.

**57 Insertion of new s 20A**

After section 20—

*insert—*

**‘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).’.

## **58 Amendment of s 21 (Failure to elect or appoint elected members)**

(1) Section 21—

*insert—*

‘(1A) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).’.

(2) Section 21(1A) to (3)—  
*renumber* as section 21(2) to (4).

(3) Section 21—  
*insert*—

‘(5) In this section—  
“entity” does not include the council.’.

## **PART 9—AMENDMENT OF QUEENSLAND UNIVERSITY OF TECHNOLOGY ACT 1998**

### **59 Act amended in pt 9**

This part amends the *Queensland University of Technology Act 1998*.

### **60 Amendment of s 15 (Elected members)**

Section 15(2) and (3), after ‘full-time’—  
*insert*—  
‘and part-time’.

### **61 Insertion of new s 20A**

After section 20—  
*insert*—

#### **‘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 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 student guild to appoint a student to the office at a meeting of the council of the student guild; and
- (b) if the elected member was a member of QUT Alumni (the “**alumni**”)—the council may authorise the alumni to appoint a member of the alumni to the office at a meeting of the alumni 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 alumni**” does not include a member of the alumni who is eligible for membership of the council under section 15(2)(a), (b) or (c).’.

## **62 Amendment of s 21 (Failure to elect or appoint elected members)**

(1) Section 21—

*insert—*

‘(1A) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).’.

(2) Section 21(1A) to (3)—

*renumber* as section 21(2) to (4).

(3) Section 21—

*insert—*

‘(5) In this section—

“entity” does not include the council.’.

## **PART 10—AMENDMENT OF UNIVERSITY OF QUEENSLAND ACT 1998**

### **63 Act amended in pt 10**

This part amends the *University of Queensland Act 1998*.

### **64 Amendment of s 15 (Elected members)**

(1) Section 15(4)—

*omit.*

(2) Section 15(5), ‘Also, despite’—

*omit, insert—*

‘Despite’.

(3) Section 15(5)—

*renumber* as section 15(4).

### **65 Insertion of new s 20A**

After section 20—

*insert—*

#### **‘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 member was elected by a ballot under section 15(3), the senate 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) The senate must appoint to the office a person who is eligible to be elected to the office under section 15.

‘(5) A person appointed under subsection (2) or (4) is taken to have been elected under section 15.’.

## **66 Amendment of s 21 (Failure to elect or appoint elected members)**

(1) Section 21, heading, ‘**or appoint**’—

*omit.*

(2) Section 21(1), ‘or appoint’—

*omit.*

(3) Section 21—

*insert—*

‘(1A) The senate may, if asked by the Minister, nominate a person for appointment under subsection (1).’.

(4) Section 21(2), ‘or appointed’—

*omit.*

(5) Section 21(3)—

*omit.*

(6) Section 21(1A) and (2)—

*renumber* as section 21(2) and (3).

## PART 11—AMENDMENT OF UNIVERSITY OF SOUTHERN QUEENSLAND ACT 1998

### 67 Act amended in pt 11

This part amends the *University of Southern Queensland Act 1998*.

### 68 Insertion of new s 20A

After section 20—

*insert—*

#### **‘20A Dealing with casual vacancy in office of particular elected members**

‘(1) This section applies if a casual vacancy arises in the office of an elected member, other than a member mentioned in section 15(2)(d).

‘(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), if the elected member was a student, the council may authorise the board of the student guild to appoint a student to the office at a meeting of the board of the student guild.

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

**69 Amendment of s 21 (Failure to elect or appoint elected members)**

(1) Section 21—

*insert—*

‘(1A) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).’.

(2) Section 21(1A) to (3)—

*renumber* as section 21(2) to (4).

(3) Section 21—

*insert—*

‘(5) In this section—

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

## **PART 12—AMENDMENT OF UNIVERSITY OF THE SUNSHINE COAST ACT 1998**

**70 Act amended in pt 12**

This part amends the *University of the Sunshine Coast Act 1998*.

**71 Amendment of s 15 (Elected members)**

(1) Section 15(2)(a) and (3)(a), before ‘academic staff’—

*insert—*

‘full-time and part-time’.

(2) Section 15(2)(b) and (3)(b), before ‘general staff’—

*insert—*

‘full-time and part-time’.

(3) Section 15(4) and (5)—

*omit.*

**72 Insertion of new s 20A**

After section 20—

*insert—*

**‘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 board of the student guild to appoint a student to the office at a meeting of the student guild at which a quorum is present; 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).’.

**73 Amendment of s 21 (Failure to elect or appoint elected members)**

(1) Section 21, heading, ‘or appoint’—

*omit.*

(2) Section 21(1), ‘or appoint’—

*omit.*

(3) Section 21—

*insert—*

‘(1A) The council may, if asked by the Minister, nominate a person for appointment under subsection (1).’.

(4) Section 21(2), ‘or appointed’—

*omit.*

(5) Section 21(3), ‘or appointment’—

*omit.*

(6) Section 21(1A) to (3)—

*renumber* as section 21(2) to (4).

**PART 13—OTHER AMENDMENTS****74 Minor and consequential amendments**

The schedule amends the Acts it mentions.

## SCHEDULE

### MINOR AND CONSEQUENTIAL AMENDMENTS

section 74

#### CENTRAL QUEENSLAND UNIVERSITY ACT 1998

**1 Section 22, before ‘vacancy’—**

*insert—*

‘casual’.

**2 Schedule 2—**

*insert—*

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

#### EDUCATION (ACCREDITATION OF NON-STATE SCHOOLS) ACT 2001

**1 Section 75(3), ‘division’—**

*omit, insert—*

‘part’.

**2 Chapter 7, heading, after ‘PROVISIONS’—**

*insert—*

‘**FOR ACT No. 60 OF 2001**’.



## SCHEDULE (continued)

**3 Schedule 3, definitions “accepted representations”, “show cause notice” and “show cause period”—***omit.***4 Schedule 3—***insert—***‘ “accepted representations”—**

- (a) for chapter 2, part 3, division 2A—see section 58B(2); or
- (b) for chapter 2, part 4, division 2—see section 65(2); or
- (c) for chapter 3, part 6, division 2—see section 95(2).

**“indictable offence”** includes an indictable offence dealt with summarily.**“show cause notice”—**

- (a) for chapter 2, part 3, division 2A—see section 58A(2); or
- (b) for chapter 2, part 4, division 2—see section 64(2); or
- (c) for chapter 3, part 6, division 2—see section 94(2).

**“show cause period”—**

- (a) for chapter 2, part 3, division 2A—see section 58A(2)(d); or
- (b) for chapter 2, part 4, division 2—see section 64(2)(d); or
- (c) for chapter 3, part 6, division 2—see section 94(2)(d).

**“type of education”** means a type of education mentioned in section 12(1).’.**5 Schedule 3, definition “certificate of accreditation”, after ‘57(4)’—***insert—**‘or 58E(3)’.*

## SCHEDULE (continued)

- 6** Schedule 3, definition “certificate of provisional accreditation”, after ‘57(4),’—

*insert—*

‘58E(3),’.

- 7** Schedule 3, definitions “distance education”, “person with a disability”, “preschool education”, “primary education”, “secondary education”, “special education” and “State school”, after ‘see’—

*insert—*

‘the’.

**EDUCATION (GENERAL PROVISIONS) ACT 1989**

- 1** Section 2(1)—

*insert—*

- ‘ “indictable offence” includes an indictable offence dealt with summarily.’.

- 2** Section 13(1), ‘sections 2(2),’—

*omit, insert—*

‘sections’.

- 3** Section 61(3), ‘64(8)’—

*omit, insert—*

‘64’.

## SCHEDULE (continued)

**EDUCATION (TEACHER REGISTRATION) ACT 1988****1 Section 10(b), ‘indictable offence,’—***omit, insert—*

‘indictable offence, whether on indictment or summarily.’

**2 Section 44B(3), ‘indictable offence,’—***omit, insert—*

‘indictable offence, whether on indictment or summarily.’

**GRIFFITH UNIVERSITY ACT 1998****1 Section 19(2), ‘or (e)’—***omit.***2 Section 19(3)(a), ‘or reappointed’—***omit.***3 Section 22, before ‘vacancy’—***insert—*

‘casual’.

**4 Schedule 2—***insert—*‘**“indictable offence”** includes an indictable offence dealt with summarily.’

## SCHEDULE (continued)

**JAMES COOK UNIVERSITY ACT 1997****1 Section 22, before ‘vacancy’—***insert—*

‘casual’.

**2 Part 8, heading, ‘AND TRANSITIONAL’—***omit.***3 Schedule 2—***insert—*

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

**QUEENSLAND UNIVERSITY OF TECHNOLOGY ACT  
1998****1 Section 22, before ‘vacancy’—***insert—*

‘casual’.

**2 Schedule 2—***insert—*

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

## SCHEDULE (continued)

**UNIVERSITY OF QUEENSLAND ACT 1998****1 Section 22, before ‘vacancy’—***insert—*

‘casual’.

**2 Section 52(2)(k), ‘15(5)’—***omit, insert—*

‘15(4)’.

**3 Schedule 2—***insert—*

- ‘ **“indictable offence”** includes an indictable offence dealt with summarily.’.

**UNIVERSITY OF SOUTHERN QUEENSLAND ACT 1998****1 Section 22, before ‘vacancy’—***insert—*

‘casual’.

**2 Schedule 2—***insert—*

- ‘ **“indictable offence”** includes an indictable offence dealt with summarily.’.

## SCHEDULE (continued)

**UNIVERSITY OF THE SUNSHINE COAST ACT 1998****1 Section 22, before ‘vacancy’—***insert—*

‘casual’.

**2 Schedule 2—***insert—*

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