



Queensland

Queensland Institute of Medical Research Act 1945

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Reprint note

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Queensland Institute of Medical Research Act 1945

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Queensland Institute of Medical Research Act 1945

An Act to provide for the establishment and maintenance of an Institute of Medical Research, and for other purposes

Preamble

Whereas it is considered that a system of research in medical science, particularly in relation to diseases of particular significance to Queensland, is an essential factor in and towards the betterment of the health and the general wellbeing of the people of this State.

And whereas for the purpose of providing for a system of such medical research on a sound basis it is desirable that an institute, called 'The Queensland Institute of Medical Research', should be established and maintained.

And whereas it is desirable that statutory approval should be given to the establishment and maintenance of this Institute, and that the necessary provisions, hereinafter set forth, should be enacted for such purpose.

Part 1 Preliminary

1 Short title

This Act may be cited as the *Queensland Institute of Medical Research Act 1945*.

2 Definitions

In this Act—

Council means the Council of the Queensland Institute of Medical Research constituted under this Act.

Director means the Director of the Queensland Institute of Medical Research or other person for the time being performing the functions of the Director.

Institute means the Queensland Institute of Medical Research constituted under this Act.

National Health and Medical Research Council means the National Health and Medical Research Council established under the *National Health and Medical Research Council Act 1992* (Cwlth).

Part 2 The Institute and the Council

3 Establishment of The Queensland Institute of Medical Research

- (1) There shall be established The Queensland Institute of Medical Research (the ***Institute***).
- (2) The Institute is established for the purpose of research into any branch or branches of medical science.
- (3) The Institute shall be under the control and management of the Council.
- (4) The name of the Council shall be ‘The Council of The Queensland Institute of Medical Research’.
- (5) The Council shall be a body corporate under the name and style of ‘The Council of The Queensland Institute of Medical Research’, and by that name shall have perpetual succession and an official seal and shall be capable in law of suing and being sued in its corporate name and of acquiring, holding, and disposing of property.

- (6) All courts, judges, justices, and persons acting judicially shall take judicial notice of the seal of the Council affixed to any document or notice and shall presume that it was duly affixed.

4 Administration of Act

The administration of this Act shall be subject to the Minister.

4A Functions of the Council

The functions of the Council are—

- (a) to control and manage the Institute; and
- (b) to raise and accept moneys for the purposes of the Institute; and
- (c) to invest moneys raised or accepted by the Council for the purposes of the Institute; and
- (d) to invest moneys derived from any property or other invested moneys of the Council for the purposes of the Institute.

5 Membership of Council

- (1) The Council consists of at least 7, but not more than 11, members appointed by the Governor in Council.
- (2) The Minister is to recommend persons to be appointed as members of the Council.
- (3) For subsection (2), the Minister may have regard to the skills, experience and expertise of a person in any of the following areas—
 - (a) corporate governance;
 - (b) public or academic administration;
 - (c) health or clinical research;
 - (d) health ethics;
 - (e) financial management;

- (f) fund raising;
- (g) any other area the Minister considers to be relevant to the functions of the Council.

5B Council members' term of appointment

- (1) A member of the Council holds office for the term stated in the member's instrument of appointment.
- (2) The stated term must not be more than 4 years.
- (3) The member may be reappointed.
- (4) However, a member must not be reappointed if the total of the member's terms of appointments would be more than 12 years.
- (5) Subsection (4) does not apply if the Minister is satisfied there are special circumstances that justify a member being appointed for a total of more than 12 years.

5C Chair and deputy chair

- (1) The Governor in Council is to appoint a member of the Council to be chair, and another member to be deputy chair, of the Council.
- (2) A vacancy occurs in the office of chair or deputy chair if the person holding the office resigns the office or ceases to be a member of the Council.
- (3) However, a person resigning the office of chair or deputy chair may continue to be a member of the Council.

6 When seat of member to become vacant

The seat of any member of the Council shall become vacant if the member—

- (a) dies;
- (b) resigns;

- (c) absents himself or herself without permission of the Council for more than 4 consecutive meetings of the Council;
- (d) is an uncertificated or undischarged bankrupt;
- (f) is removed from office by the Governor in Council for misbehaviour or incapacity;
- (g) ceases to hold any office or qualification which the member is required to hold as a member of the Council;
- (h) becomes an officer or employee of the Council.

6A Nominee Council member vacancy

- (1) Before the Governor in Council appoints a person to fill a vacancy caused by the office of a member becoming vacant before the vacating member's term is completed, any applicable nomination process for appointment to the Council must be followed.
- (2) A person appointed to fill a casual vacancy on the Council holds office for the balance of the vacating member's term.

7 Quorum of Council and member acting as chair

- (1) A quorum for the Council is the number equal to one-half of the number of its members for the time being holding office or, if one-half is not a whole number, the next highest whole number.
- (2) In the case of the illness or absence of both the chair and the deputy chair the members of the Council present at any meeting shall appoint one of its members to act as chair.
- (3) Any person acting as chair shall while the person so acts have all the powers, authorities, and responsibilities and shall perform all the duties of the chair.

8 Meetings of Council

- (2) Meetings of the Council shall be held at the times and places as determined by the Council.
- (2A) However, the chair shall have power to convene special meetings of the Council.
- (3) The business of the Council shall be conducted in such manner as the Council determines.
- (4) The chair shall preside at every meeting of the Council at which the chair is present.
- (5) Upon every question the chair shall have a vote and if the members are equally divided the chair shall have a second or casting vote.
- (6) The chair shall give effect to any resolution, minute, or report which has been passed or adopted by the Council.
- (7) The deputy chair may act in the office of chair during such time as the chair is prevented by absence, illness, or otherwise from performing the duties of the office of chair, or during such time as a vacancy exists in the office of chair.
- (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 shall not receive fees or allowances for attendance at a meeting of the Council during the officer's ordinary hours of duty.
- (9) 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.
- (10) A person may be a member of such a committee whether or not the person is a member of the Council.
- (11) Members of a committee formed pursuant to subsection (9) 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 shall not

receive fees and allowances for attendance at a meeting of the committee during the officer's ordinary hours of duty.

80 Council deemed to be sanctioned under Collections Act 1966

The functions of the Council shall for the purposes of part 3 of the *Collections Act 1966* and without other authority than this section be deemed to be sanctioned under that Act, but otherwise the provisions of that Act shall apply to the Council and its functions according to their tenor.

8P Term of office to continue

If at the expiration of the term of office of a member of the Council the member's successor has not been duly appointed the member shall hold office as a member of the Council until the member's successor takes up office as such.

9 Council may carry out agreements

- (1) The Council is empowered to enter into and carry out agreements or arrangements within the purposes of this Act.
- (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.

10 Director and Deputy Director of Institute

- (1) There shall be a Director and a Deputy Director of the Institute.
- (2) Every Director and every Deputy Director shall be appointed by the Governor in Council, having regard to the advice of the Council, and on conditions approved by the Governor in Council, having regard to the advice and for a term (the ***appointment term***) of not more than 7 years.
- (3) Subject to good conduct and efficient service, the Director shall be entitled to hold office for the appointment term as from the commencement of the Director's appointment, but may be reappointed by the Governor in Council.
- (4) The Director, subject to the direction of the Council, shall be responsible for the control and management of the employees of the Institute.
- (5) Subject to the general direction of the Council, the Director shall be responsible for the research work carried out by the Institute.
- (6) If for any reason the Director is, in the opinion of the Council, unable to carry out the Director's duties as Director, the Deputy Director shall carry out the duties, and have all the powers and authorities of the Director, during the period of such inability.

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.
- (4A) Persons employed pursuant to subsection (4) 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 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.
- (6A) Any such worker during the term of the worker's 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 to the work, the worker is taken to be employed by the Council.
- (7A) The Council may enter into a contract of insurance with WorkCover Queensland or another insurer for insurance for honorary research workers or other appropriate prescribed persons.

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- (8) The Council may in respect of an appropriate person confer a distinction on such person.
- (9) Any such distinction shall be conferred and held subject to any provisions that may be adopted by the Council by way of resolution.

11A Appointment of personnel for joint research projects

- (1) The Council may appoint 1 or more persons with appropriate qualifications to take part in joint research projects, in connection with the work of the Institute, involving the Institute and other institutions involved in research in any branch or branches of medical science.
- (2) The Council may decide the period and terms of the appointment.
- (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
 - (b) to have any power to bind the Council.

11B Superannuation schemes

The council may—

- (a) establish or amend superannuation schemes; or
- (b) join in establishing or amending superannuation schemes; or
- (c) take part in superannuation schemes.

12 Council may obtain assistance from departments

The Council may make arrangements with the chief executive of a department to use the services of officers of, and other persons employed in, the department.

12A Council is statutory body

- (1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the Council is a statutory body.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the Council's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*, including, for example, section 9 of this Act.

13 Funds and financial provisions

- (1) For the purposes of the *Financial Accountability Act 2009* 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 to the extent provided by that Act.
- (2) There shall be established and kept, for the purposes of this Act a General 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 the Consolidated Fund an amount appropriated by Parliament from time to time for the purpose.
- (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 into the General Fund.
- (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.

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

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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 authorised and shall be shown as a disbursement in the budget framed for that year.

Part 3 Other matters relating to the Institute and the Council

14 Gifts, devises and bequests

- (1) Any gift, devise or bequest of real or personal property may be made by any person to the Council for the benefit or purposes of the Institute, and the Council may accept any such gift, devise or bequest and carry out and perform any trusts relating to the same.
- (3) The acceptance by the Council of any such gift, devise or bequest shall be a complete discharge to the person paying, conveying or transferring the same and such last mentioned person shall not be obliged or concerned to see to the application thereof.

15 Requirements in respect of property given, devised or bequeathed

- (1) Separate records and accounts may, and, where so directed by a donor, settlor or testator, shall be kept in respect of all property the subject of any gift, devise or bequest mentioned in section 14 or derived therefrom.
- (2) All property given, devised or bequeathed to the Council and accepted by it in accordance with the provisions of section 14—
 - (a) shall be applied by the Council in and for the particular purpose or purposes directed by the donor, settlor or testator, and, in the absence of such direction, in and for such purpose or purposes as shall be determined by the Council;
 - (b) shall be known as and applied under such name or title as the donor, settlor or testator shall have directed or, in the absence of such direction, may be known and applied under such name or title as the Council may determine.
- (3) The Council may invest amounts accepted by it under section 14 or derived from any property accepted by it in investments directed by the donor, settlor or testator and, in the absence of such direction or failing such investment, in accordance with the *Statutory Bodies Financial Arrangements Act 1982* or in either or both of the following ways as the Minister upon the advice of the Treasurer shall determine—
 - (a) in real property or upon mortgage of real property situated in Queensland;
 - (b) in or upon the securities, stocks or shares of any company incorporated or registered pursuant to any law of the Commonwealth or any State or Territory.
- (4) Where moneys have been invested by the Council in accordance with the directions of a donor, settlor or testator the Council may, subject to determination by the Minister upon the advice of the Treasurer, vary and transpose such investments for or into others similarly so directed, and where

moneys have been invested by the Council in accordance with the determination of the Minister upon the advice of the Treasurer, the Council may vary and transpose such investments for or into others similarly so determined in the first instance or from time to time.

- (5) The provisions of this section shall apply to all gifts, devises and bequests of property made to the Council prior to the commencement of the *Queensland Institute of Medical Research Act Amendment Act 1980* to the extent that such provisions may reasonably be applied as well as to all gifts, devises and bequests made after such commencement.

16 Power of Governor in Council to grant use of premises to Institute

- (1) The Governor in Council may, subject to such terms and conditions as the Governor in Council thinks proper, grant the Council the right to use and occupy for the purposes of the Institute any land and buildings of the Crown.
- (2) **Grant of use of land and premises of State instrumentality or statutory authority to Institute**

The Governor in Council or any statutory authority (including a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982*) may, subject to such terms and conditions as the Governor in Council or it thinks proper, grant the Council the right to use for the purposes of the Institute any land, plant, or equipment or any other matter or thing under the control of any State instrumentality or statutory authority respectively.

18 Discoveries and inventions

Subject to section 9, all discoveries, inventions, and improvements in processes, apparatus, and machines made by officers and employees shall be vested in the Council as its sole property and shall be made available under such conditions and 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 Council.

19 Bonuses to discoverers and inventors

- (1) The Council may pay an amount (a *bonus*) to a successful discoverer or inventor working, or who has worked, as an officer and employee or under the auspices of the Council.
- (2) Without limiting subsection (1), a bonus is an amount paid in addition to the discoverer's or inventor's salary and allowances (if any).
- (3) However, subsection (4) applies if the Council intends to pay a bonus to a discoverer or inventor in a financial year and the total amount of bonuses paid to all discoverers and inventors in the financial year—
 - (a) is more than \$10m before the payment is made; or
 - (b) will be more than \$10m because of the payment.
- (4) Before the Council pays the bonus, the Council must obtain the approval of the Governor in Council.

21 Governor in Council may make regulations

- (1) The Governor in Council may make regulations under this Act.
- (1A) Without limiting the generality of subsection (1), such regulations may provide for all or any of the following matters—
 - (a) matters necessary or convenient for the proper management of the Institute and for facilitating its work;
 - (b) prescribing fees to be charged by the Council for work done;
 - (c) protecting the Institute and the plant and equipment therein against damage, defilement, or loss;
 - (d) publication or reporting of information relating to any matter investigated in the Institute.

- (2) The regulations may fix a penalty not exceeding in any case 5 penalty units for any breach thereof, to be recovered summarily.

Part 4 Transitional provisions

Division 1 Transitional provision for Health Legislation Amendment Act 2001

22 Transitional provision for Health Legislation Amendment Act 2001

The members of the Council holding office immediately before the commencement of this section cease to hold office on the commencement.

Division 2 Transitional provisions for Water and Other Legislation Amendment Act 2010

23 Definitions for div 2

In this division—

former Trust means the Queensland Institute of Medical Research Trust under this Act as in force from time to time before the trust abolition day.

trust abolition day means the day section 24 commences.

Trust Fund means the Trust Fund established under this Act, section 8N as in force from time to time before the trust abolition day.

24 Abolition of the former Trust

- (1) At the trust abolition day—
 - (a) the former Trust is abolished; and
 - (b) the members of the former Trust stop being members of the former Trust.
- (2) This section does not affect the member's appointment in another office.
- (3) No compensation is payable to the member because of this section.

25 The Council is the legal successor

- (1) The Council is the successor in law of the former Trust.
- (2) Subsection (1) is not limited by another provision of this Act.

26 Assets and liabilities etc.

- (1) At the trust abolition day—
 - (a) the assets and liabilities of the former Trust immediately before the trust abolition day become the assets and liabilities of the Council; and
 - (b) an amount in the Trust Fund becomes an asset of the Council; and
 - (c) any contracts, undertakings or arrangements to which the former Trust is a party, in force immediately before the trust abolition day—
 - (i) are taken to have been entered into by the Council; and
 - (ii) may be enforced against or by the Council; and
 - (d) any property that, immediately before the trust abolition day, was held on trust or subject to a condition by the former Trust continues to be held on the same trust, or subject to the same condition, by the Council.

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- (2) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by the Council, record the vesting of property under this section in the Council.

27 Proceedings

- (1) A proceeding that could have been started by or against the former Trust before the trust abolition day may be started by or against the Council.
- (2) From the trust abolition day, an existing proceeding may be continued and finished by or against the Council.
- (3) In this section—
existing proceeding means a proceeding that—
 - (a) before the trust abolition day, was taken by or against—
 - (i) the former Trust; or
 - (ii) a member of the former Trust in the capacity as a member of the former Trust; and
 - (b) has not been finished before the trust abolition day.

28 Records of the former Trust

On the trust abolition day, records of the former Trust become records of the Council.

29 Things done by the former Trust

From the trust abolition day, anything done by the former Trust under this Act before the trust abolition day is taken to have been done by the Council.

30 Rights, interests and obligations of the former Trust under this Act

On the trust abolition day, a right, interest or obligation of the former Trust under this Act immediately before the trust

abolition day becomes a right, interest or obligation of the Council.

31 References to the former Trust

From the trust abolition day—

- (a) in an Act or document, a reference to the former Trust is, if the context permits, taken to be a reference to the Council; and
- (b) the official seal of the Trust affixed to a document is taken to be the official seal of the Council.

32 Members of the Council go out of office

- (1) At the commencement of this section, a relevant member goes out of office.
- (2) No compensation is payable to the relevant member because of this section.
- (3) In this section—

relevant member means a member of the Council, other than the chair.

33 Chair does not go out of office

- (1) To avoid any doubt, it is declared that despite the *Water and Other Legislation Amendment Act 2010*, section 126, the chair does not go out of office and the office of chair is not vacated.
- (2) Despite section 5B, the term of appointment of the chair is taken to end 3 years from the day this section commences.

Division 3 Transitional provision for Health Legislation Amendment Act 2013

34 Members of Council

- (1) This section applies to a person who, immediately before the commencement, was a member of the Council appointed under previous section 5B.
- (2) The person is taken to be appointed as a member of the Council under amended section 5B for the remainder of the term for which the person was originally appointed.
- (3) In this section—

amended section 5B means section 5B as in force immediately after the commencement.

commencement means the commencement of this section.

previous section 5B means section 5B as in force immediately before the commencement.