

NORTHERN TERRITORY OF AUSTRALIA
UNIVERSITY COLLEGE OF THE NORTHERN TERRITORY ACT 1985

No. 58 of 1985

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NORTHERN TERRITORY OF AUSTRALIA

No. 58 of 1985

AN ACT

To establish a university college in the Northern Territory, and for related purposes

[Assented to 12 December 1985]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *University College of the Northern Territory Act 1985*.

2. COMMENCEMENT

The several sections of this Act shall come into operation on the dates respectively fixed by the Administrator by notice in the *Gazette*.

3. DEFINITIONS

In this Act, unless the contrary intention appears -

"By-laws" means the By-laws made under section 43;

"Chairman" means the Chairman of the Council and includes the Deputy Chairman and the Secretary of the Department of Education while he is acting as the Chairman;

"College" means the University College of the Northern Territory established by section 4;

"Council" means the Council of the College;

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"Deputy Chairman" means the Deputy Chairman of the Council;

"financial year" means the period of 12 months ending on 30 June or such other date as the Council determines under section 26;

"graduate" means a member of a class of persons determined under the By-laws to be graduates for the purposes of this Act;

"The University of Queensland" means The University of Queensland established by the *University of Queensland Act 1909*, as amended, of the State of Queensland;

"Warden" means the Warden appointed under section 22 or 44 and includes a person for the time being acting in or performing the duties of the office of the Warden.

PART II - UNIVERSITY COLLEGE OF THE NORTHERN TERRITORY

4. ESTABLISHMENT OF COLLEGE

(1) There is hereby established a college by the name of the University College of the Northern Territory.

(2) The College -

(a) is a body corporate with perpetual succession;

(b) shall have a common seal; and

(c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the College affixed to a document and shall assume that it was duly affixed.

5. FUNCTIONS OF COLLEGE

The functions of the College are -

(a) to provide undergraduate and post-graduate university education and make provisions for research;

(b) to co-operate with the Menzies School of Health Research established by the *Menzies School of Health Research Act*, universities and institutions of advanced education and research, whether in the Territory or elsewhere, in relation to such education and research and related activities;

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- (c) to disseminate knowledge and advance skills and their practical application in fields in which the College is concerned, in the public interest;
- (d) to provide consultative and research services and facilities;
- (e) to administer schemes of financial and other assistance for students and persons studying or carrying out research at the College;
- (f) to provide library and other educational facilities for use by the public subject to such conditions as it thinks fit; and
- (g) to carry out such other functions as are from time to time conferred on it by or under this or any other Act.

6. POWERS OF COLLEGE

(1) Subject to this Act, the College has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

(2) Without limiting the generality of subsection (1), the College may, for the purpose of carrying out its functions or exercising its powers, including powers conferred on it elsewhere in this or any other Act -

- (a) enter into contracts;
- (b) create, develop, apply for, obtain and hold intellectual and industrial property and rights and enter into agreements or arrangements for the commercial exploitation of any such property and rights on such terms as to royalties, lump sum payments or otherwise as the Council thinks fit;
- (c) purchase, take on lease or otherwise acquire and sell, grant leases of or otherwise dispose of, real or personal property;
- (d) erect buildings;
- (e) occupy, use and control any land or building owned or held under lease and made available for the purposes of the College;
- (f) accept gifts, grants, bequests, devises and assignments made to the College, whether on trust or otherwise, and act as trustee of moneys or other property vested in the College upon trust; and

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- (g) establish, manage and control halls of residence and other forms of student and other accommodation.

7. COMPOSITION OF COLLEGE

The College shall consist of -

- (a) the members of the Council;
- (b) the graduates of the College;
- (c) the staff employed for the time being by the College; and
- (d) all enrolled students of the College.

PART III - COUNCIL

8. DEFINITIONS

In this Part -

"appointed member" means a member of the Council referred to in section 10(1)(e) or (k);

"elected member" means a member of the Council referred to in section 10(1)(f), (g), (h) or (j);

"nominated member" means a member of the Council referred to in section 10(1)(d).

9. COLLEGE AFFAIRS TO BE CONDUCTED BY COUNCIL

(1) Subject to this Act, the affairs of the College shall be conducted by the Council.

(2) All acts and things done by the Council or in the name of or on behalf of the College with the authority, express or implied, of the Council shall be deemed to have been done by the College.

10. COMPOSITION OF COUNCIL

(1) Subject to this Part, the Council shall consist of -

- (a) the Warden;
- (b) the Vice-Chancellor of The University of Queensland;
- (c) the Secretary of the Department of Education;
- (d) 2 persons nominated from time to time by the Vice-Chancellor of The University of Queensland;

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- (e) not more than 10 persons appointed by the Administrator;
 - (f) one Dean and one other member of the academic staff of the College elected by the full-time teaching and research staff of the College;
 - (g) one person elected by and from the full-time staff (being the full-time staff other than the staff referred to in paragraph (f)) of the College;
 - (h) such number of students of the College as provided by subsection (3) elected by the students of the College;
 - (j) such number of graduates of the College, as provided by subsection (4), who are not full-time members of the teaching or research staff of the College, elected by the graduates of the College; and
 - (k) one person, if any, appointed under subsection (2) by the Council.
- (2) The Council may appoint a person, who is not a full-time member of the teaching or research staff of the College, to be a member of the Council.
- (3) The number of students of the College to be elected as referred to in subsection (1)(h) shall be -
- (a) until such time as there are graduates of the College - 2; and
 - (b) where there are graduates of the College - one.
- (4) The number of graduates of the College to be elected as referred to in subsection (1)(j) shall be, where the number of graduates -
- (a) is 100 or less - one;
 - (b) exceeds 100 but does not exceed 300 - 2;
 - (c) exceeds 300 but does not exceed 500 - 3;
 - (d) exceeds 500 but does not exceed 1,000 - 4; and
 - (e) exceeds 1,000 - 5.
- (5) If a body or person required by this section to elect or nominate a person or a number of persons to be a member or members of the Council fails or refuses to elect or nominate a person, or a sufficient number of such persons, by the date referred to in section 11(4) or (5), the Minister may, on the advice of the Council, appoint

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such person or sufficient number of persons as he thinks fit to be a member or members of the Council who, on being so appointed, shall be deemed to have been elected or nominated, as the case may be, by the body or person so required.

(6) A reference in subsection (1) to the Vice-Chancellor of The University of Queensland or the Secretary of the Department of Education includes a reference to a person for the time being acting in or performing the duties of that office.

11. PERIOD OF OFFICE, &c.

(1) The period of office of an elected member of the first Council shall expire on 31 December 1988.

(2) Subject to this Part, a person elected or who shall be deemed to have been elected as an elected member of the Council, other than the first Council, holds office as a member of the Council for 3 years commencing on 1 January 1989 or on 1 January of the first year of a subsequent 3 year period for which he is elected.

(3) Subject to this Part, a student of the College elected as referred to in section 10(1)(b) holds office for 12 months commencing on 1 January of the year for which he is elected.

(4) Subject to subsection (5), the bodies or persons required under section 10 to elect or nominate a person or persons to be a member or members of the Council shall notify the Warden of such election or nomination by such date as is from time to time determined by the Council.

(5) In the case of an election or nomination referred to in subsection (4) in respect of a member of the first Council after the commencement of this Part, the notification referred to in that subsection shall be to the Secretary of the Department of Education and shall be given by such date as is determined by him.

(6) Subject to this Act, an appointed member holds office as a member of the Council for such period, not exceeding 3 years, as is specified in the instrument of his appointment.

(7) In this section "first Council" means the Council as constituted at any time before 1 January 1989.

12. RESIGNATION OF ELECTED, NOMINATED OR APPOINTED MEMBERS

A member, other than the Warden, the Vice-Chancellor of The University of Queensland or the Secretary of the Department of Education, may resign his office as a member of the Council by writing signed by him and delivered to the Chairman.

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13. VACATION OF OFFICE

(1) A member, other than the Warden, the Vice-Chancellor of The University of Queensland or the Secretary of the Department of Education, vacates his office as a member of the Council if -

- (a) he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) he is convicted in the Territory of an offence punishable by imprisonment for 12 months or more, or is convicted elsewhere than in the Territory of an offence which, if committed in the Territory, would be an offence so punishable;
- (c) he becomes a voluntary patient within the meaning of, or is ordered to be kept in custody under section 13 of, the *Mental Health Act* or is similarly confined, controlled or restricted under a law of a State or another Territory of the Commonwealth which provides for the care and control of persons who are mentally ill;
- (d) he absents himself, except on leave granted by the Council, from 3 consecutive meetings of the Council of which reasonable notice has been given to him personally or by post;
- (e) he resigns his office as a member;
- (f) being an elected member, he ceases to hold the qualifications necessary for his election as that elected member;
- (g) being a nominated member, he ceases to be so nominated; or
- (h) he knowingly contravenes or fails to comply with section 16.

14. CASUAL VACANCIES

(1) Subject to section 10(5), where a vacancy occurs in the office of an elected member other than by the expiration of the term of his office, the Council shall appoint a person with the same qualifications for election as the member in whose stead he is appointed, to fill the vacancy and, subject to this Part, that person shall hold office as a member of the Council for the unexpired period of office of the elected member in whose stead he is appointed.

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(2) In exercising its powers under subsection (1) the Council shall take into account the results of the election at which the elected member vacating his office was elected.

15. CHAIRMAN AND DEPUTY CHAIRMAN

(1) At the first meeting of the Council after the commencement of this Part, at the first meeting of the Council after the expiration of 3 years after the commencement of this Part and at each first meeting of the Council held after the expiration of each subsequent 3 years period, the members of the Council shall elect one of their number to be the Chairman of the Council and another to be the Deputy Chairman.

(2) The Warden shall not be elected or be capable of holding office as, or exercising the powers or performing the functions of, the Chairman or Deputy Chairman.

(3) The Chairman and Deputy Chairman hold office in their respective capacities until -

- (a) the election of the Chairman and Deputy Chairman at each first meeting of the Council referred to in subsection (1);
- (b) they resign their respective offices as Chairman or Deputy Chairman by writing signed by them and delivered to the Secretary of the Council; or
- (c) they cease to be members of the Council,

whichever first occurs.

(4) Where the office of Chairman is vacant or, for any reason, the Chairman is unable to exercise the powers or perform the duties of his office, the Deputy Chairman may act in the office of the Chairman.

(5) Until the election of the Chairman at the first meeting of the Council after the commencement of this Part, the Secretary of the Department of Education shall act as the Chairman and has and may exercise the powers, and shall perform the functions, of that office.

16. DISCLOSURE OF INTEREST

(1) A member of the Council who has a direct or indirect pecuniary interest in -

- (a) a matter being considered or about to be considered at a meeting of the Council; or
- (b) a thing being done or about to be done by the Council,

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otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 members and of which he is not a director shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Council.

(2) A disclosure by a member at a meeting of the Council that he -

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body, or to that person, which may arise after the date of the disclosure.

(3) The Council shall cause particulars of all disclosures made under this section to be recorded in a book kept for the purpose and that book shall be open at all reasonable times to the inspection of any person on payment of such fee, if any, as is determined from time to time by the Council.

(4) After a member of the Council has, or shall be deemed to have, disclosed the nature of an interest in a matter or thing pursuant to this section, he shall not, unless the Council (in the absence of the member) otherwise determines -

- (a) be present during any deliberation of the Council, or take part in a decision of the Council, in relation to that matter; or
- (b) exercise a function under this Act in relation to that thing.

(5) A reference in this section to the Council includes a reference to a committee of the Council.

17. MEETINGS OF COUNCIL

(1) Subject to subsection (2), the Chairman shall call such meetings of the Council as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 4 months.

(2) The Chairman shall call a meeting of the Council to be held within 3 months after the commencement of this Part.

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(3) The Chairman shall call a meeting of the Council if requested to do so by not less than 50% of the members of the Council for the time being holding office.

(4) At a meeting of the Council -

(a) 50% of the members of the Council for the time being holding office constitute a quorum;

(b) questions arising shall be determined by a majority of the votes of the members present and voting and, in the event of an equality of votes, the matter shall be deferred for consideration at the next meeting of the Council to be held on a subsequent day and, in the event of an equality of votes at that next meeting, the matter shall be taken to have been defeated; and

(c) subject to this Act and the By-laws, the Council shall determine the procedure to be followed at or in connection with the meeting.

18. PRESIDING AT MEETINGS

(1) Subject to subsection (2), the Chairman or, in his absence, the Deputy Chairman shall preside at all meetings of the Council at which he is present.

(2) In the absence of the Chairman or Deputy Chairman, the members present at a meeting of the Council shall elect an acting chairman and that person may exercise the powers and shall perform the functions of the Chairman for that meeting.

19. COMMITTEES

(1) The Council may establish such committees as it thinks fit.

(2) A person may be appointed as a member of a committee whether or not he is a member of the Council.

PART IV - ACADEMIC UNITS AND DEGREES

20. ACADEMIC UNITS

The Council may establish such teaching, research or other units within the College as it thinks fit.

21. ACADEMIC INSTRUCTION AND GRANTING OF DEGREES AND OTHER AWARDS

The Council may cause instruction to be given to students for the purpose of completing the requirements for a degree or other award of any university with which the Northern Territory or the Council has made an agreement.

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PART V - APPOINTMENTS, &c.

22. APPOINTMENTS OF WARDEN AND DEPUTY WARDEN

(1) Subject to this section and section 44, the Council shall, on such terms and conditions as it thinks fit, appoint a Warden who shall, subject to the directions of the Council and the By-laws, be responsible to the Council for the administration of the College.

(2) Subject to this section, the Council may, on such terms and conditions as it thinks fit, appoint such Deputy Wardens, if any, to perform such functions, as it thinks fit.

(3) The Administrator may confirm or refuse to confirm an appointment made under this section or a term or condition in respect of such appointment.

(4) No appointment made under this section, or a term or condition in respect of any such appointment, shall have force or effect unless and until confirmed by the Administrator.

23. APPOINTMENT OF STAFF

Subject to this Act and the By-laws, the Council may, on such terms and conditions as it thinks fit, appoint such academic and other staff as it thinks necessary for the purposes of the College.

24. CONSULTANTS MAY BE ENGAGED

The Council may engage consultants to the College and make such arrangements to be provided with advice as it thinks fit.

PART VI - PROPERTY, FINANCE, AUDIT AND ANNUAL REPORT

25. EXCLUSION OF *FINANCIAL ADMINISTRATION AND AUDIT ACT*

The College is not a statutory corporation within the meaning or for the purposes of the *Financial Administration and Audit Act*.

26. FINANCIAL YEAR

Subject to the approval of the Treasurer, the Council may determine a date on which the financial year of the College ends.

27. FEES

(1) Subject to this section, fees are payable to the College at such rates, for such courses of study or instruction of the College, for admission to such examinations conducted by the College and in relation to such other facilities or privileges of the College as provided in the By-laws.

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(2) A student who has been granted by the College, in accordance with the By-laws, a scholarship or bursary is exempt from payment of fees to the extent of the exemption applicable under the scholarship or bursary.

(3) The Council may exempt a student from the payment of the whole or any part of a fee otherwise payable by him if it considers that the payment of the whole or part of the fee, as the case may be, would cause substantial hardship to him.

28. COLLEGE ACCOUNTS

(1) Subject to this Part and the approval of the Treasurer, the Council shall open and maintain such account or accounts with such bank or banks as it thinks fit.

(2) There shall be paid to the credit of the account or accounts referred to in subsection (1) all moneys received by the College.

(3) Subject to the terms of a trust, money in an account referred to in subsection (1) shall be applied by or with the authority of the Council only for the purposes of the College.

29. PROPER ACCOUNTS TO BE KEPT

The Council shall cause to be kept proper accounts and records of the transactions and affairs of the College and shall do all things necessary to ensure that all payments out of the moneys of the College are correctly made and properly authorized and that adequate control is maintained over the property of, or in the custody of, the College and over the incurring of liabilities by the College.

30. GIFTS, &c., AND TRUST FUNDS

In exercising its powers to acquire, hold, deal with or dispose of real or personal property, the College may agree to and carry out the conditions of a gift, grant, bequest, devise, purchase, lease or other means whereby it acquires or holds property and the Council may create and administer such trust fund or funds in connection therewith, or for any other purpose, as it thinks fit.

31. INVESTMENT

(1) The Council may establish such investment common funds for the collective investment of trust or other moneys of or in the custody of the College as it thinks fit.

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

(3) Subject to subsections (4) and (5), the Council shall periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) Where moneys received by the Council to be expended for a stated purpose have been brought into an investment account but cannot, or will not immediately, be expended for that purpose, the Council may pay into the general funds of the College the whole or any part of that part of the income of that investment common fund that is attributed to the participation of those moneys in that fund and which are not required for that stated purpose.

(5) The Council may, as it thinks fit, add such portion of the income of an investment account as it thinks fit to the capital of the common fund or use such portion of that income as it thinks fit to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(6) Moneys of the College (whether forming part of a common fund or not), including moneys held on trust or subject to a condition, shall not be invested by the Council except in a class of investment approved by the Treasurer, and when a class of investment is so approved the Council may invest moneys of the College in investments of that class whether or not those investments are authorized trustee investments.

(7) The powers conferred on the Council by this section, or by a by-law relating to investment of property, shall not be exercised by the Council in relation to a trust fund or other moneys where -

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

32. VARIATION OF TERMS OF TRUST OR GIFT

(1) In this section "approved scheme" means a scheme, with or without modifications, approved under subsection (3) by the Administrator.

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(2) Where property is held by the College on terms requiring it or the income from the property to be applied for a purpose or purposes and -

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

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

(3) A scheme under subsection (1) shall be submitted by the Council to the Administrator and on receipt of the scheme the Administrator may -

- (a) by notice in the *Gazette* -
 - (i) approve the scheme; or
 - (ii) approve the scheme with such modifications as he thinks fit; or
- (b) by notice in writing to the Council, refuse to approve the scheme.

(4) Where, in relation to property or a part or residue of property held by the College, there is in existence an approved scheme, the property, part or residue shall, in accordance with the approved scheme, be diverted from the purpose or purposes for which it was held and shall be held for the purpose or purposes as designated in the approved scheme.

(5) In selecting a purpose for an approved scheme or for an amendment of an approved scheme, the Council shall have a preference for a purpose which, in its opinion, is as nearly similar to the purpose or purposes for which the

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property concerned is, for the time being, held by the College as is consistent with useful and convenient achievement but such a scheme or amendment shall not be invalidated or otherwise prejudiced by reason that another purpose may have more properly been selected by the Council in accordance with this subsection.

(6) On its publication in the *Gazette* judicial notice shall be taken of an approved scheme and of all amendments of the scheme.

(7) The powers conferred by this section are in addition to any other power or right exercisable in law in relation to property held by the College on trust.

33. FINANCIAL ACCOMMODATION

(1) For the purpose of providing financial accommodation for enabling the College to perform its functions, the Council may, with the prior approval of the Treasurer, obtain advances by way of loan -

- (a) from the Treasurer;
- (b) on overdraft from a bank; or
- (c) from any other person, on such security at such rate of interest and subject to such other terms and conditions as the Council, with the approval of the Treasurer, thinks fit.

(2) Before entering into negotiations for the obtaining of an advance by way of loan on overdraft from a bank or from another person, the Council shall obtain the approval of the Treasurer to enter into such negotiations and, for the purpose of obtaining that approval, shall submit to the Treasurer such information as he requires.

34. BUDGET AND FINANCIAL INFORMATION

- (1) The Council shall -
 - (a) in each financial year, adopt for the next following financial year a budget for all funds of the College, other than those to which paragraph (b) relates, and shall approve all amendments to the budget, and shall control the expenditure of the College so that it conforms as nearly as practicable to the approved budget; and
 - (b) review annually funds available to the College by way of bequest, donation or special grant and the expenditure thereof, and shall, subject to the terms of a trust and before any such expenditure is made, approve the proposed disposition of those funds.

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(2) As soon as practicable after adopting or amending a budget under subsection (1)(a), the Council shall forward to the Treasurer a copy of the budget or amendment, as the case may be.

(3) The Treasurer may at any time require the Council to provide him with such information as, in his opinion, is necessary to enable him to accurately assess the financial affairs of the College and the Council shall provide that information accordingly.

35. AUDIT AND ANNUAL REPORTS

Sections 67 and 68 of the *Financial Administration and Audit Act* apply to and in relation to the College as if the College were a prescribed statutory corporation within the meaning and for the purposes of those sections.

PART VII - MISCELLANEOUS

36. TRADING, &c., CORPORATIONS

The Council may, with the approval of the Treasurer, establish by incorporation in the Territory or elsewhere, or participate in the establishment of, such trading, research or other corporation as it thinks fit for the purpose of promoting or assisting, or in connection with the functions of, the College.

37. DELEGATION

(1) The Council, and the Warden subject to the directions of the Council, may, by instrument in writing, delegate to a person any of its or his powers and functions under this Act, other than this power of delegation or, in the case of the Council, the power to make by-laws.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Council or the Warden, as the case may be.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Council or the Warden.

(4) Where a power or function is delegated under this section by the Council to a member of the staff of the College, that power or function shall be deemed to have been delegated to the Warden also.

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38. TERMS OF CONTRACT AND EXECUTION OF DOCUMENTS

(1) A deed, instrument, contract or agreement relating to any property or matter which, if made or executed by an individual, would by law be required to be in writing under seal may be made on behalf of the College in writing under its common seal.

(2) An instrument, contract or agreement relating to any property or matter which, if made by or between individuals would be required to be in writing signed by the parties to be charged therewith, may be made on behalf of the College in writing by a person acting under the authority, express or implied, of the Council.

(3) A contract relating to any property or matter which, if made between individuals, would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of the College by a person acting under the authority, express or implied, of the Council.

(4) A contract entered into or an instrument, contract or agreement signed in relation to any property or obligation of the College shall be deemed to have been entered into or signed with the express authority of the Council if it is entered into or signed in accordance with a resolution of the Council for the time being in force.

39. PROTECTION OF MEMBERS, &c.

No action or proceeding, civil or criminal, shall be commenced or lie against a member of the College or the Council for or in respect of an act or thing done or omitted to be done in good faith -

- (a) by him in his capacity as a member of the College or of the Council; or
- (b) by the College or the Council,

in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

40. RE-ELECTION OR RE-APPOINTMENT

Nothing in this Act shall prevent a person from being, at any time, re-appointed or re-elected to an office or place under this Act if he is otherwise qualified or capable of holding that office or place.

41. VALIDITY OF PROCEEDINGS

No proceedings of the Council or of a committee of the Council, and no act done by the Warden, Deputy Warden or a delegate of the Council or the Warden, shall be invalidated by reason only of -

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- (a) a defect in the appointment or election of, or of a disqualification of, a member of the Council or such a person;
- (b) a defect in the convening or conduct of a meeting of the Council or a committee of the Council;
- (c) there being a vacancy in the membership of the Council or a committee of the Council;
- (d) the fact that a person purporting to be a member of the Council or a committee of the Council by virtue of an office held by him did not hold that office;
- (e) the fact that a person purporting to be a member of the Council or a committee of the Council was not such a member; or
- (f) a contravention of or noncompliance with section 16 by a member of the Council or a committee of the Council.

42. NO DISCRIMINATION

The College shall not discriminate against or in favour of a person on the grounds of that person's sex, religion, race, physical disability or political beliefs.

43. BY-LAWS

(1) The Council may make by-laws, not inconsistent with this Act, prescribing matters -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and in particular in relation to -

- (c) the method of election of members of the Council referred to in section 10(1)(f), (g), (h) and (j) including procedures relating to nominating, enrolling and voting and the counting of votes and the declaration of polls;
- (d) the use and custody of the common seal of the College;
- (e) the manner and time of convening, holding and adjourning the meetings of the Council, voting at such meetings, the powers and duties of the Chairman, the conduct and record of the business, the appointment of committees of the Council, and the quorum, powers and duties of such committees;

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- (f) the admission of students to the College;
- (g) the promotion and extension of College teaching and research;
- (h) the granting of degrees, diplomas, certificates, and honours by the College;
- (j) the granting of fellowships, scholarships, exhibitions, bursaries and prizes by the College;
- (k) the admission of students of other universities or educational establishments to a corresponding status or of graduates of other universities to a corresponding degree or diploma of the College without examination;
- (m) fees to be paid;
- (n) the establishment, management and control of libraries and museums in connection with the College;
- (p) the establishment, management and control of halls of residence established, and other accommodation provided, by the College;
- (q) the affiliation, association or connection with the College of an educational or research establishment, wherever situated, to which the governing body of such establishment consents;
- (r) the control and investment of the property of the College, including property held on trust or subject to a condition;
- (s) the protection of the property of or under the control of the College from trespass, damage or misuse;
- (t) the regulation and control of access to, and the use of, land and buildings the property of or under the control of the College and the conduct of persons and the presence and use of vehicles thereon;
- (u) the terms and conditions of appointment of academic and other staff;
- (w) the recognition of the status of graduate for the purposes of this Act; and
- (x) student discipline.

(2) A by-law referred to in subsection (1)(c) may provide for an election of a member of the Council to be conducted by and by agreement with the Chief Electoral

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Officer within the meaning of the *Electoral Act* and where it so provides the election shall be conducted in such manner, not inconsistent with the By-laws, as the Chief Electoral Officer thinks fit.

(3) Without limiting the generality of subsection (1), a by-law may -

(a) provide, in the case of an offence of -

- (i) bringing a vehicle onto or parking or standing a vehicle on a site in breach of a by-law;
- (ii) driving a vehicle on a part of a site in breach of a by-law;
- (iii) driving a vehicle on a part of a site at a speed in excess of a speed that, in relation to that part, is prescribed, determined by a method prescribed or fixed by a person authorized by a by-law so to do in respect of the site or that part;
- (iv) driving a vehicle on a part of a site contrary to a direction, whether given by a person authorized by a by-law so to do or by a traffic control device on the site; or
- (v) doing on a site with or in respect of a vehicle such other act as is prescribed,

that the person who was in charge of the vehicle at the material time or the owner of the vehicle (whether or not he was in charge of the vehicle at the material time) shall be liable to be punished for the offence;

(b) define who is the owner of a vehicle for the purposes of the By-laws;

(c) provide for the removal or disposal of a vehicle -

(i) parked or left standing on a site in such a position as to obstruct, interfere with or cause danger to other vehicles on the site or to users of the site; or

(ii) apparently abandoned on a site; and

(d) prescribe the proof that is necessary or sufficient to establish a matter relevant to an offence created by the By-laws.

(4) A by-law referred to in subsection (3)(a) shall not be so construed that the owner of a vehicle and the person in charge of it at the time an offence was

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committed with or in respect of the vehicle shall both be liable for the one offence.

(5) In subsection (3), "site" means land or a building the property of or under the control of the College.

(6) A by-law may impose or authorize the Council or an officer of the College to impose a penalty not exceeding \$1,000 for a contravention of or failure to comply with the By-laws and provide for the recovery and enforcement of any such penalty.

(7) A penalty imposed by the Council or an officer of the College in pursuance of a by-law authorizing the imposition of a penalty by the Council or the officer is a debt due and payable by the person on whom it is imposed to the College.

44. TRANSITIONAL

(1) The Administrator shall, as soon as practicable after the commencement of this section, on the nomination of the Vice-Chancellor of The University of Queensland, appoint a person to be the first Warden of the College.

(2) The person appointed under subsection (1) shall be appointed on such terms and conditions as the Administrator thinks fit and shall hold office, subject to those terms and conditions, until 31 December 1987.

(3) The person appointed under subsection (1) shall, subject to the directions of the Council and the By-laws, be responsible to the Council for the administration of the College.

45. REPEAL AND SAVINGS

(1) The *University (Interim Arrangements) Act 1980* being Act No. 60 of 1980, is repealed.

(2) Subject to section 32 of this Act and section 43 of the *Menzies School of Health Research Act*, all property and rights held by or in trust for the use of the Authority immediately before the commencement of this section shall, on and after that commencement, by virtue of this section and without further assurance, be vested in or held in Trust, as the case may be, for the College subject to the same terms and conditions, if any, on which they were held by or in trust for the Authority.

(3) Subject to section 43 of the *Menzies School of Health Research Act*, all agreements (including contracts of employment) entered into by or on behalf of or for the benefit or purposes of the Authority and in force immediately before the commencement of this section, and whether or not the rights, liabilities and obligations under those agreements could be assigned, shall have

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effect as if the College were a party to or affected by the agreement instead of the Authority and as if, in relation to anything to be done on or after that commencement, for every reference (however worded and whether expressed or implied) in such an agreement to -

- (a) the Authority or the Planning Vice-Chancellor, there were substituted a reference to the College or the Council, as the case may be; and
 - (b) an officer or employee of the Authority, there were substituted a reference to a corresponding officer or employee of the College.
- (4) No person shall be liable for a duty, fee or other charge in relation to the transfer or vesting of property effected by subsection (2) or an agreement affected by subsection (3).
- (5) In this section "Authority" means the University Planning Authority established by the *University (Interim Arrangements) Act*.
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