

CONCURRENCE COPY

GARVAN INSTITUTE OF MEDICAL RESEARCH BILL, 1984

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to constitute a statutory corporation to be known as the Garvan Institute of Medical Research (“the Institute”);
- (b) to declare the principal objects of the Institute;
- (c) to constitute the Garvan Institute Board (“the Board”) which shall be the governing body of the Institute;
- (d) to make other provisions relating to the functions of the Institute and of the Board, and to the directors comprising the Board; and
- (e) to vest certain property in the Institute as the successor to the Institute of Medical Research previously established at Saint Vincent’s Hospital, Darlinghurst.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1 specifies the short title.

Clause 2 provides for the commencement of the substantive provisions of the proposed Act on a proclaimed day.

Clause 3 contains definitions.

PART II.—THE GARVAN INSTITUTE OF MEDICAL RESEARCH.

Clause 4 constitutes the Institute as a corporation.

Clause 5 states the principal object of the Institute as being to further knowledge in the field of human medicine by promoting the conduct of research in that field.

Clause 6 specifies certain of the powers of the Institute, which include the control and management of property vested in the Institute.

PART III.—ADMINISTRATION.

Clause 7 constitutes the Board and gives effect to provisions relating to the appointment of the 15 directors who will comprise the Board and to procedure at meetings of the Board.

Clause 8 specifies the functions of the Board. The Board will have power to determine the policy of the Institute and to control the affairs of the Institute.

Clause 9 declares that the director who is required to be elected by the other directors ("the Executive Director") is responsible for the administration and management of the work of the Institute. The Executive Director will be, in discharging that responsibility, subject to the control and direction of the Board.

Clause 10 provides that the Board may establish committees of the Board if the Board considers that course appropriate.

PART IV.—FINANCE.

Clause 11 provides for the establishment of a bank account into which all money received by the Institute is required to be paid.

Clause 12 specifies the financial year of the Institute.

Clause 13 requires the operations of the Institute to be recorded in proper accounts and records. The Treasurer of the Institute is required to submit to the Board an audited statement of accounts within 6 months after the end of each financial year of the Institute.

PART V.—MISCELLANEOUS.

Clause 14 empowers the Board to make by-laws for the purposes of the proposed Act, including by-laws relating to the election of the Executive Director.

Clause 15 makes provisions with respect to the winding up of the Institute.

Clause 16 applies certain provisions of the Companies (New South Wales) Code to the Institute and the directors of the Institute.

Clause 17 gives effect to the vesting, saving and transitional provisions contained in Schedule 3.

Schedule 1 contains provisions relating to the qualifications required of the directors and their terms of office.

Schedule 2 sets forth procedural requirements for meetings of the Board.

Schedule 3 vests certain property, rights and interests in the Institute, provides for the construction of certain instruments and makes certain savings.

GARVAN INSTITUTE OF MEDICAL RESEARCH BILL, 1984

NEW SOUTH WALES.

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GARVAN INSTITUTE OF MEDICAL RESEARCH BILL, 1984

No. , 1984.

A BILL FOR

An Act to constitute the Garvan Institute of Medical Research and to define its functions; and for other purposes.

[MR MULOCK—22 *May*, 1984.]

Garvan Institute of Medical Research.

WHEREAS:

- 5 (1) An Appeal for the purpose of raising money was conducted in 1957 in conjunction with the celebration of the centenary of the founding of Saint Vincent's Hospital, Darlinghurst, by the Congregation of the Religious Sisters of Charity of Australia:
- (2) Pursuant to a decision made on 27th October, 1960, by the Trustees of Saint Vincent's Hospital, Darlinghurst, for the disposition of the money raised by that Appeal, a building was erected at that Hospital to be used for the purposes of medical research:
- 10 (3) By a Declaration of Trust dated 5th November, 1962, the Trustees for the time being of Saint Vincent's Hospital, Darlinghurst, declared themselves to be trustees of a fund required, by the terms of the trusts created by the Declaration, to be used for the purposes of providing for the salary of a Director of Clinical Medical Research and for the purposes of research in clinical medicine at that Hospital:
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- (4) With the assistance of staff provided by those Sisters of Charity and equipment provided from that Hospital and other sources, the building so erected has been used under the supervision of that Director for the purpose of medical research which, conducted under the name of the Garvan Institute of Medical Research, has become of increasing national and international significance:
- 20
- (5) The Trustees of Saint Vincent's Hospital, Darlinghurst, believe that the research work of that Institute can best be continued and expanded so as to serve the interests of the community and of the sick in particular if that work is conducted in accordance with the Christian religious principles of those Sisters of Charity by that Institute functioning as a statutory corporation pursuant to an Act of Parliament:
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Garvan Institute of Medical Research.

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Garvan Institute of Medical Research Act, 1984".

10 Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as 15 may be notified by proclamation published in the Gazette.

Interpretation.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Garvan Institute Board constituted by section 7;

20 "by-law" means by-law made under this Act;

"director" means a director referred to in section 7 (2);

"Executive Director" means the director elected in the manner prescribed by the by-laws;

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“Institute” means the Garvan Institute of Medical Research constituted by section 4;

“Sisters of Charity” means the Congregation of the Religious Sisters of Charity of Australia.

- 5 (2) In this Act, a reference to—
- (a) a function includes a reference to a power, authority and duty; and
 - (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

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PART II.

THE GARVAN INSTITUTE OF MEDICAL RESEARCH.

Constitution of the Institute.

4. (1) There is hereby constituted a corporation with the corporate name “Garvan Institute of Medical Research”.

- 15 (2) The Institute shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

Objects of the Institute.

5. (1) The principal object of the Institute is to further knowledge in the field of human medicine by promoting the conduct of research in that field,
20 being research which is consistent with the tenets of the Sisters of Charity.

(2) Without affecting the generality of subsection (1), the Institute shall, in so far as the resources available permit, aim—

- (a) to discover the nature and causes of human diseases and other human afflictions;

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- (b) to improve methods of preventing, diagnosing and treating those diseases and other afflictions;
- (c) to provide such services in the field of human medicine as the Board, with the concurrence of the Minister, may determine;
- 5 (d) to provide, and aid in the provision of, educational programmes relating to matters the subject of research conducted by the Institute; and
- (e) to disseminate, within and outside the State, information concerning the work of the Institute.

10 Powers of the Institute.**6. (1) The Institute may—**

- 15 (a) for the purpose of attaining its objects, act in association with any other body, being a body, whether constituted or situated within or outside the State, having objects of a similar nature to those of the Institute;
- (b) with the aim of applying the money for the purpose of attaining its objects, obtain or raise money from the public or otherwise by means of grants, subsidies, subscriptions, gifts, bequests, public appeals or in any other like manner;
- 20 (c) borrow money either without security or on the security of the whole or any part of the property of the Institute; and
- 25 (d) apply for, obtain and hold rights in industrial property and enter into agreements or arrangements for the commercial exploitation of any such rights upon such terms and conditions (including terms and conditions relating to royalties and lump sum payments, if appropriate) as the Institute thinks fit.

(2) Subject to this Act, the Institute shall have the control and management of all property for the time being vested in the Institute.

(3) The Institute may agree to any condition that is not inconsistent
30 with its objects being imposed on its acquisition of any property.

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(4) Where, by gift inter vivos, devise or bequest, the Institute acquires property, it may retain the property in the form in which it is acquired, except as provided by any condition agreed to by the Institute under subsection (3) in relation to the property.

5 (5) The rule of law against remoteness of vesting does not apply to a condition to which the Institute has agreed under subsection (3).

(6) Except as provided by any condition agreed to by the Institute under subsection (3) in relation to the money, the Institute may invest any money held by it in any security authorised by the Trustee Act, 1925, and
10 not otherwise.

(7) Subject to this Act, the Institute shall have and may exercise such functions, in addition to those specified elsewhere in this Act, as are reasonably necessary for the attainment of its objects.

PART III.

ADMINISTRATION.

15

Constitution of the Board.

7. (1) There is hereby constituted a Garvan Institute Board.

(2) The Board shall consist of 15 directors who shall be appointed by the Governor.

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(3) Schedule 1 has effect with respect to the directors.

(4) Schedule 2 has effect with respect to the procedure of the Board.

Functions of the Board.

8. (1) The Board is the governing body of the Institute.

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(2) Subject to this Act, the Board has power to determine the policy of the Institute in relation to any matter, and to control the affairs of the Institute.

(3) It is the duty of the Board, within the limits of its powers, to ensure that the policy of the Institute is directed towards the attainment of the objects of the Institute.

(4) The Board shall fix the terms and conditions of employment (including terms and conditions relating to remuneration) of the Executive Director and of any other person employed by the Institute.

(5) Any act, matter or thing done in the name of, or on behalf of, the Institute by the Board or with the authority of the Board, shall be deemed to have been done by the Institute.

Executive Director.

9. (1) The Executive Director is responsible for the administration and management of the work of the Institute and for any services provided in conjunction therewith.

(2) Without affecting the generality of subsection (1), the Executive Director shall—

- (a) supervise all clinical, medical and scientific research of the Institute;
- (b) in so far as the resources available permit, implement the scientific and administrative policies of the Board;
- (c) prepare an annual report for the Board on the work and activities of the Institute during the preceding 12 months; and
- (d) exercise such other functions as the Board may direct.

(3) The Executive Director is, in the exercise of the functions of the Executive Director under this Act, subject to the control and direction of the Board, except in relation to the contents of a report or recommendation made by the Executive Director to the Board.

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Committees.

10. (1) The Board may establish such committees of the Board as it thinks fit for the purpose of assisting it to exercise its functions.

(2) A person may be appointed to a committee whether or not the person is a director.

PART IV.

FINANCE.

Institute Account.

11. (1) The Board shall cause to be established with a bank carrying on business in the State an account to be called the "Garvan Institute of Medical Research Account".

(2) There shall be paid to the credit of the Account all money received by the Institute in connection with the administration of this Act.

(3) The Account may be applied by or with the authority of the Institute towards the requirements of the Institute.

(4) In this section, "Account" means the account established pursuant to subsection (1).

Financial year.

12. The financial year of the Institute shall be the year commencing on 1st January or on such other day as may be prescribed.

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Accounts and audit.

13. (1) The Institute shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Treasurer of the Institute shall, as soon as practicable, but 5 within 6 months, after the end of each financial year of the Institute, prepare and submit to the Board a statement of accounts, together with a certificate of a qualified accountant given under this section in relation to the statement.

(3) The statement of accounts shall include such information as the Board has requested and shall exhibit a true and fair view of the financial 10 position and transactions of the Institute.

(4) The Treasurer of the Institute shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to a qualified accountant for verification and certification.

15 (5) The qualified accountant's certificate shall state that the accountant has audited the accounts of the Institute relating to the relevant financial year, shall indicate whether the statement of accounts complies with subsection (3) and shall set forth any qualifications subject to which the certificate is given.

20 (6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the qualified accountant, after its receipt by the accountant and before its submission to the Board.

(7) In this section, "qualified accountant" means a registered company auditor, within the meaning of the Companies (New South Wales) 25 Code.

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PART V.

MISCELLANEOUS.

By-laws.

14. (1) The Board may make by-laws, not inconsistent with this Act, 5 for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the meetings of the Board;
- 10 (b) the qualifications of the Executive Director;
- (c) the functions of the Chairperson and Deputy Chairperson of the Board and the Treasurer of the Institute;
- (d) the committees of the Institute and of the Board;
- 15 (e) the meetings of committees established under section 10 or the by-laws; and
- (f) annual and other periodic reports.

(2) A provision of a by-law may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 20 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person or body,

or may do any combination of those things.

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Winding up.

15. (1) The Institute may be wound up voluntarily or by the Supreme Court.

(2) Subject to this section and the regulations, the Institute may be wound up in the same manner and in the same circumstances in which a company formed and registered under the Companies (New South Wales) Code may be wound up.

(3) In the case of any winding up or dissolution of the Institute, the provisions of Part XII of the Companies (New South Wales) Code with respect to the winding up or dissolution of a company formed and registered under that Code shall, subject to this section and the regulations, apply.

(4) The provisions of Part XII of the Companies (New South Wales) Code apply to and in respect of any winding up or dissolution of the Institute with such modifications, including modifications by way of addition to or exclusion of those provisions, as may be prescribed by the regulations.

(5) If the Institute is being wound up voluntarily and a vacancy occurs in the office of liquidator which, in the opinion of the Minister, is unlikely to be filled in the manner provided by the Companies (New South Wales) Code, the Minister may appoint a person to be liquidator.

(6) The Governor may make regulations for or with respect to any matter that by this section is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this section.

(7) In this section, "regulations" means regulations made under subsection (6).

Application of certain provisions of Companies (New South Wales) Code.

16. (1) Subject to subsection (2), the provisions of sections 541 and 542 and of sections 553 to 561, both inclusive, of the Companies (New South Wales) Code apply to and in respect of the Institute in the same way as they apply to and in respect of a company.

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(2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

- (a) references therein to a corporation or company were references to the Institute;
- 5 (b) references therein to an officer or a director of a company included references to a director of the Institute;
- (c) section 553 (1) (d) were omitted;
- (d) paragraph (c) were omitted from—
 - 10 (i) the definition of “appropriate officer” in section 553 (3); and
 - (ii) the definition of “relevant day” in section 553 (3); and
- (e) the reference in section 555 to section 267 of that Code were a reference to section 13.

Vesting, saving and transitional provisions.

- 15 17. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 7 (3).)

PROVISIONS RELATING TO THE DIRECTORS.

Interpretation.

- 20 1. (1) In this Schedule—
- “Chairperson” means the Chairperson of the Board;
 - “Deputy Chairperson” means the Deputy Chairperson of the Board;
 - “nominated director” means a director other than the Executive Director;
 - “Treasurer” means the Treasurer of the Institute.
- 25 (2) A reference, whether made in writing or otherwise—
- (a) to the Chairman or Chairwoman of the Board shall be treated as a reference to the Chairperson; or
 - (b) to the Deputy Chairman or Deputy Chairwoman of the Board shall be treated as a reference to the Deputy Chairperson.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Directors.**

2. (1) Of the directors—
- 5 (a) 3 shall be persons nominated by the Superior General of the Sisters of Charity;
- (b) 3 shall be persons nominated by the trustees of the land belonging to Saint Vincent's Hospital, Darlinghurst;
- 10 (c) 2 shall be persons nominated by The Garvan Research Foundation under the Constitution as for the time being in force of that body promulgated by the Sister Administrator of that Hospital;
- (d) 2 shall be persons nominated by the Minister of State for Health of the Commonwealth;
- 15 (e) 2 shall be persons nominated by the Minister of State for Health of New South Wales;
- (f) 2 shall be persons nominated by the Council of The University of New South Wales; and
- (g) 1 shall be a distinguished medical scientist elected by the other directors when required and in the manner prescribed by the by-laws.
- 20 (2) A person of or above the age of 70 years is not eligible to be appointed as a director.

Officers of the Board.

3. (1) The nominated directors shall elect from among their number, when required and in the manner prescribed by the by-laws—
- 25 (a) a Chairperson of the Board;
- (b) a Deputy Chairperson of the Board; and
- (c) a Treasurer of the Institute.
- (2) A person who holds the office of Chairperson, Deputy Chairperson or Treasurer shall be deemed to have vacated that office if the person—
- 30 (a) is removed from that office by the Board under subclause (3);
- (b) resigns that office by instrument in writing addressed to the Board; or
- (c) ceases to be a director.
- (3) The Board may remove a person from the office of Chairperson, Deputy Chairperson or Treasurer.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Acting directors, etc.**

4. (1) The Governor may, from time to time, appoint a person to act in the office
5 of a director during the illness or absence of the director if the person so appointed
has the same qualifications as were required by clause 2 of the director, and the
person, while so acting, shall have and may exercise all the functions of the director.

(2) The Governor may remove any person from the office to which the person
was appointed under subclause (1).

10 (3) The Deputy Chairperson shall, during the illness or absence of the Chair-
person, act in the office of the Chairperson and shall have and may exercise all the
functions of the Chairperson.

(4) The Board may, from time to time, appoint a nominated director to act in
the office of the Deputy Chairperson or Treasurer during the illness or absence of
15 the Deputy Chairperson or Treasurer, as the case may be, and the nominated director,
while so acting, shall have and may exercise all the functions of the Deputy Chairperson
or Treasurer, as the case may be.

(5) The Board may remove any person from any office to which the person was
appointed under subclause (4).

20 (6) For the purposes of this clause—

(a) a vacancy in the office of a director, the Chairperson, the Deputy Chairperson
or the Treasurer shall be deemed to be an absence from that office; and

(b) the Deputy Chairperson shall be deemed to be absent from office as Deputy
25 Chairperson during any period that the Deputy Chairperson acts in the
office of Chairperson pursuant to subclause (3).

(7) In subclauses (1), (3) and (4), clauses 8, 9 and 10 and Schedule 2—

(a) a reference to a director, the Chairperson, the Deputy Chairperson or the
Treasurer includes a reference to a person acting in the office of a director,
the Chairperson, the Deputy Chairperson or the Treasurer;

30 (b) a reference to the appointment of a director includes a reference to the
appointment of a person to act in the office of a director; and

(c) a reference to the office of a director, the Chairperson, the Deputy Chair-
person or the Treasurer includes a reference to the office of a person appointed
35 to act in the office of a director, the Chairperson, the Deputy Chairperson
or the Treasurer.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Terms of office.**

- 5 Subject to this Schedule, a director shall hold office for such period not exceeding 5 years as may be specified in the instrument of appointment of the director, but is eligible (if otherwise qualified) for re-appointment.

Filling of vacancy in office of director.

6. In the event of the office of any director becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

10 Casual vacancies.

7. (1) A director shall be deemed to have vacated office if the director—
- (a) dies;
 - 15 (b) absents himself or herself from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given to the director personally or in the ordinary course of post and the director is not before the expiration of 6 weeks after the last of those meetings excused by the Board for being absent from those meetings, unless the absence is occasioned by illness or other unavoidable cause;
 - 20 (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - 25 (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
 - 30 (f) resigns the office by instrument in writing addressed to the Chairperson or, in the case of the Chairperson, to the Minister;
 - (g) attains the age of 70 years; or
 - (h) is removed from office by the Governor under subclause (2) or (3).
- (2) The Governor may remove a director from office.
- 35 (3) Without affecting the generality of subclause (2), the Governor may remove from office a director who contravenes the provisions of clause 8.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Disclosure of pecuniary interests.**

8. (1) A director who has a direct or indirect pecuniary interest—
- 5 (a) in a matter that is being considered, or is about to be considered, at a meeting of the Board; or
- (b) in a thing being done or about to be done by the Board,
- shall, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.
- 10 (2) A disclosure by a director at a meeting of the Board that the director—
- (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,
- 15 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 Board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open
- 20 at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Board from time to time.
- (4) After a director has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the director shall not, unless the Board (in the absence of the director) otherwise determines—
- 25 (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing,
- as the case may require.
- (5) Notwithstanding that a director contravenes the provisions of this clause, that
- 30 contravention does not invalidate any decision of the Board or the exercise of any function under this Act.
- (6) Nothing in this clause applies to or in respect of an interest of a director in a matter or thing which arises by reason only that the director is a medical practitioner.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.*

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

5 Effect of certain other Acts.

9. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a director and a director is not, as a director, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a director.

(3) The office of a director shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

15 Liability of directors, etc.

10. No matter or thing done by the Board, and no matter or thing done by any director or by any person acting under the direction of the Board shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a director or a person so acting personally to any action, liability, claim or demand whatever.

SCHEDULE 2.

(Sec. 7 (4).)

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.**General procedure.**

25 1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

Quorum.

30 2. Eight directors shall form a quorum and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise all the functions of the Board.

Garvan Institute of Medical Research.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD—*continued.*

Presiding director.

3. (1) At a meeting of the Board—
- 5 (a) the Chairperson;
- (b) in the absence of the Chairperson—the Deputy Chairperson; or
- (c) in the absence of the Chairperson and the Deputy Chairperson—another director elected as chairperson for the meeting by the directors present, shall preside as chairperson.
- 10 (2) The person acting as chairperson at any meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

4. A decision supported by a majority of the votes cast at a meeting of the Board
15 while a quorum is present shall be the decision of the Board.

Minutes.

5. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

First meeting of the Board.

- 20 6. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.
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SCHEDULE 3.

(Sec. 17.)

VESTING, SAVING AND TRANSITIONAL PROVISIONS.

Interpretation.

5 1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“former Institute” means the institute known immediately before the appointed day as the Garvan Institute of Medical Research.

Vesting of assets, etc.

10 2. (1) On and from the appointed day—

(a) all personal property, all rights and interests therein and all control and management thereof that, immediately before that day, belonged to or was or were vested in the Sisters of Charity and used for the purposes of the former Institute shall vest in the Institute;

15 (b) all deeds, contracts, agreements, arrangements and undertakings entered into by or on behalf of the Sisters of Charity for the purposes of the former Institute and in force immediately before that day shall be deemed to be deeds, contracts, agreements, arrangements and undertakings entered into by the Institute;

20 (c) any action, arbitration or legal or other proceeding which was immediately before that day pending or subsisting by or in favour of or against the Sisters of Charity in respect of the former Institute shall not be abated or discontinued or prejudiced by reason of the provisions of this Act but may be prosecuted, continued or enforced by or in favour of or against the
25 Institute in the same manner in which it might have been prosecuted, continued or enforced by or in favour of or against the Sisters of Charity if this Act had not been enacted;

(d) all acts, matters and things of a continuing nature and pertaining to the former Institute made, done or commenced before that day by the Sisters
30 of Charity which have any force or effect or are capable of acquiring any force or effect shall be deemed to have been made, done or commenced by or in relation to or on behalf of the Institute and shall have effect and may be continued or completed by or in relation to or on behalf of the Institute accordingly; and

Garvan Institute of Medical Research.

SCHEDULE 3—*continued.*VESTING, SAVING AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (e) the benefit of all work and research carried out by the former Institute prior to that day and all industrial property rights (including, without limiting the generality of that expression, patents, copyrights, trademarks, registered designs, secret information and know-how) and the right to apply for any such industrial property rights which immediately before that day were vested in the Sisters of Charity as a consequence or by reason of that work or research shall vest in the Institute.
- 10 (2) Nothing in subclause (1) affects the estate or interest held, immediately before the appointed day, by the trustees of the land belonging to Saint Vincent's Hospital, Darlinghurst, in that land.

Agreement to certain conditions.

- 15 3. Where any property, right or interest to which clause 2 (1) (a) applies was acquired before the appointed day by the Sisters of Charity by gift *inter vivos*, devise or bequest subject to a condition agreed to by or on behalf of the Sisters of Charity, the Institute shall be deemed to have agreed, under section 6 (3), to the condition subject to which the property, right or interest, as the case may be, was acquired.

Variation of certain instruments.

- 20 4. (1) The Declaration of Trust dated 5th November, 1962, and made by Edna Mavis Skewes, Margaret Alma Peardon and Frederick McDonough, a copy of which was registered at the office of the Registrar-General as Number 350, Book 2633 shall have effect as if—
- 25 (a) references in clauses 1, 2 and 3 of that instrument to the Trustees or the Trustees for the time being of Saint Vincent's Hospital were references to the Board;
- (b) the reference in clause 3 (a) (i) of that instrument to a Director of Clinical Medical Research were a reference to the Executive Director;
- 30 (c) the reference in clause 3 (a) (i) of that instrument to the Director's being appointed by the Trustees for the time being of Saint Vincent's Hospital were a reference to the Executive Director's being elected by the nominated directors, within the meaning of Schedule 1; and

Garvan Institute of Medical Research.

SCHEDULE 3—*continued.*VESTING, SAVING AND TRANSITIONAL PROVISIONS—*continued.*

5 (d) the reference in clause 3 (a) (ii) of that instrument to research in Clinical Medicine were a reference to research in the field of human medicine promoted by the Institute in accordance with its objects, and as if clauses 4 and 6 of that instrument were omitted therefrom.

(2) The Constitution of The Garvan Research Foundation (St. Vincent's Hospital, Sydney) dated 22nd December, 1980, shall have effect as if—

10 (a) references wherever occurring in that instrument to the Garvan Institute of Medical Research or the Institute were references to the Institute, within the meaning of this Act; and

(b) references wherever occurring in that instrument to the Director of the Garvan Institute of Medical Research were references to the Executive Director.

15 **Saving of certain gifts.**

5. A reference in any instrument to the Garvan Institute of Medical Research, being a reference made in relation to a gift inter vivos, devise or bequest of any interest in real or personal property which would, but for this Act, have vested on or after the appointed day in any person in trust for the purposes of the former
20 Institute shall be read and construed as a reference to the Institute.

Dissolution of former Institute.

6. The former Institute is hereby dissolved.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

(\$1.50)

**GARVAN INSTITUTE OF MEDICAL RESEARCH ACT, 1984,
No. 106**

NEW SOUTH WALES



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**GARVAN INSTITUTE OF MEDICAL RESEARCH ACT, 1984,
No. 106**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 106, 1984.

An Act to constitute the Garvan Institute of Medical Research and to define its functions; and for other purposes. [Assented to, 28th June, 1984.]

Garvan Institute of Medical Research.

WHEREAS:

- (1) An Appeal for the purpose of raising money was conducted in 1957 in conjunction with the celebration of the centenary of the founding of Saint Vincent's Hospital, Darlinghurst, by the Congregation of the Religious Sisters of Charity of Australia:
- (2) Pursuant to a decision made on 27th October, 1960, by the Trustees of Saint Vincent's Hospital, Darlinghurst, for the disposition of the money raised by that Appeal, a building was erected at that Hospital to be used for the purposes of medical research:
- (3) By a Declaration of Trust dated 5th November, 1962, the Trustees for the time being of Saint Vincent's Hospital, Darlinghurst, declared themselves to be trustees of a fund required, by the terms of the trusts created by the Declaration, to be used for the purposes of providing for the salary of a Director of Clinical Medical Research and for the purposes of research in clinical medicine at that Hospital:
- (4) With the assistance of staff provided by those Sisters of Charity and equipment provided from that Hospital and other sources, the building so erected has been used under the supervision of that Director for the purpose of medical research which, conducted under the name of the Garvan Institute of Medical Research, has become of increasing national and international significance:
- (5) The Trustees of Saint Vincent's Hospital, Darlinghurst, believe that the research work of that Institute can best be continued and expanded so as to serve the interests of the community and of the sick in particular if that work is conducted in accordance with the Christian religious principles of those Sisters of Charity by that Institute functioning as a statutory corporation pursuant to an Act of Parliament:

Garvan Institute of Medical Research.

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Garvan Institute of Medical Research Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Interpretation.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Garvan Institute Board constituted by section 7;

"by-law" means by-law made under this Act;

"director" means a director referred to in section 7 (2);

"Executive Director" means the director elected in the manner prescribed by the by-laws;

Garvan Institute of Medical Research.

“Institute” means the Garvan Institute of Medical Research constituted by section 4;

“Sisters of Charity” means the Congregation of the Religious Sisters of Charity of Australia.

- (2) In this Act, a reference to—
- (a) a function includes a reference to a power, authority and duty; and
 - (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART II.

THE GARVAN INSTITUTE OF MEDICAL RESEARCH.

Constitution of the Institute.

4. (1) There is hereby constituted a corporation with the corporate name “Garvan Institute of Medical Research”.

(2) The Institute shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

Objects of the Institute.

5. (1) The principal object of the Institute is to further knowledge in the field of human medicine by promoting the conduct of research in that field, being research which is consistent with the tenets of the Sisters of Charity.

(2) Without affecting the generality of subsection (1), the Institute shall, in so far as the resources available permit, aim—

- (a) to discover the nature and causes of human diseases and other human afflictions;

Garvan Institute of Medical Research.

- (b) to improve methods of preventing, diagnosing and treating those diseases and other afflictions;
- (c) to provide such services in the field of human medicine as the Board, with the concurrence of the Minister, may determine;
- (d) to provide, and aid in the provision of, educational programmes relating to matters the subject of research conducted by the Institute; and
- (e) to disseminate, within and outside the State, information concerning the work of the Institute.

Powers of the Institute.**6. (1) The Institute may—**

- (a) for the purpose of attaining its objects, act in association with any other body, being a body, whether constituted or situated within or outside the State, having objects of a similar nature to those of the Institute;
- (b) with the aim of applying the money for the purpose of attaining its objects, obtain or raise money from the public or otherwise by means of grants, subsidies, subscriptions, gifts, bequests, public appeals or in any other like manner;
- (c) borrow money either without security or on the security of the whole or any part of the property of the Institute; and
- (d) apply for, obtain and hold rights in industrial property and enter into agreements or arrangements for the commercial exploitation of any such rights upon such terms and conditions (including terms and conditions relating to royalties and lump sum payments, if appropriate) as the Institute thinks fit.

(2) Subject to this Act, the Institute shall have the control and management of all property for the time being vested in the Institute.

(3) The Institute may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

Garvan Institute of Medical Research.

(4) Where, by gift inter vivos, devise or bequest, the Institute acquires property, it may retain the property in the form in which it is acquired, except as provided by any condition agreed to by the Institute under subsection (3) in relation to the property.

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Institute has agreed under subsection (3).

(6) Except as provided by any condition agreed to by the Institute under subsection (3) in relation to the money, the Institute may invest any money held by it in any security authorised by the Trustee Act, 1925, and not otherwise.

(7) Subject to this Act, the Institute shall have and may exercise such functions, in addition to those specified elsewhere in this Act, as are reasonably necessary for the attainment of its objects.

PART III.

ADMINISTRATION.

Constitution of the Board.

7. (1) There is hereby constituted a Garvan Institute Board.

(2) The Board shall consist of 15 directors who shall be appointed by the Governor.

(3) Schedule 1 has effect with respect to the directors.

(4) Schedule 2 has effect with respect to the procedure of the Board.

Functions of the Board.

8. (1) The Board is the governing body of the Institute.

Garvan Institute of Medical Research.

(2) Subject to this Act, the Board has power to determine the policy of the Institute in relation to any matter, and to control the affairs of the Institute.

(3) It is the duty of the Board, within the limits of its powers, to ensure that the policy of the Institute is directed towards the attainment of the objects of the Institute.

(4) The Board shall fix the terms and conditions of employment (including terms and conditions relating to remuneration) of the Executive Director and of any other person employed by the Institute.

(5) Any act, matter or thing done in the name of, or on behalf of, the Institute by the Board or with the authority of the Board, shall be deemed to have been done by the Institute.

Executive Director.

9. (1) The Executive Director is responsible for the administration and management of the work of the Institute and for any services provided in conjunction therewith.

(2) Without affecting the generality of subsection (1), the Executive Director shall—

- (a) supervise all clinical, medical and scientific research of the Institute;
- (b) in so far as the resources available permit, implement the scientific and administrative policies of the Board;
- (c) prepare an annual report for the Board on the work and activities of the Institute during the preceding 12 months; and
- (d) exercise such other functions as the Board may direct.

(3) The Executive Director is, in the exercise of the functions of the Executive Director under this Act, subject to the control and direction of the Board, except in relation to the contents of a report or recommendation made by the Executive Director to the Board.

Garvan Institute of Medical Research.

Committees.

10. (1) The Board may establish such committees of the Board as it thinks fit for the purpose of assisting it to exercise its functions.

(2) A person may be appointed to a committee whether or not the person is a director.

PART IV.**FINANCE.****Institute Account.**

11. (1) The Board shall cause to be established with a bank carrying on business in the State an account to be called the "Garvan Institute of Medical Research Account".

(2) There shall be paid to the credit of the Account all money received by the Institute in connection with the administration of this Act.

(3) The Account may be applied by or with the authority of the Institute towards the requirements of the Institute.

(4) In this section, "Account" means the account established pursuant to subsection (1).

Financial year.

12. The financial year of the Institute shall be the year commencing on 1st January or on such other day as may be prescribed.

Garvan Institute of Medical Research.

Accounts and audit.

13. (1) The Institute shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Treasurer of the Institute shall, as soon as practicable, but within 6 months, after the end of each financial year of the Institute, prepare and submit to the Board a statement of accounts, together with a certificate of a qualified accountant given under this section in relation to the statement.

(3) The statement of accounts shall include such information as the Board has requested and shall exhibit a true and fair view of the financial position and transactions of the Institute.

(4) The Treasurer of the Institute shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to a qualified accountant for verification and certification.

(5) The qualified accountant's certificate shall state that the accountant has audited the accounts of the Institute relating to the relevant financial year, shall indicate whether the statement of accounts complies with subsection (3) and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the qualified accountant, after its receipt by the accountant and before its submission to the Board.

(7) In this section, "qualified accountant" means a registered company auditor, within the meaning of the Companies (New South Wales) Code.

Garvan Institute of Medical Research.

PART V.

MISCELLANEOUS.

By-laws.

14. (1) The Board may make by-laws, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the meetings of the Board;
- (b) the qualifications of the Executive Director;
- (c) the functions of the Chairperson and Deputy Chairperson of the Board and the Treasurer of the Institute;
- (d) the committees of the Institute and of the Board;
- (e) the meetings of committees established under section 10 or the by-laws; and
- (f) annual and other periodic reports.

(2) A provision of a by-law may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person or body,

or may do any combination of those things.

Garvan Institute of Medical Research.

Winding up.

15. (1) The Institute may be wound up voluntarily or by the Supreme Court.

(2) Subject to this section and the regulations, the Institute may be wound up in the same manner and in the same circumstances in which a company formed and registered under the Companies (New South Wales) Code may be wound up.

(3) In the case of any winding up or dissolution of the Institute, the provisions of Part XII of the Companies (New South Wales) Code with respect to the winding up or dissolution of a company formed and registered under that Code shall, subject to this section and the regulations, apply.

(4) The provisions of Part XII of the Companies (New South Wales) Code apply to and in respect of any winding up or dissolution of the Institute with such modifications, including modifications by way of addition to or exclusion of those provisions, as may be prescribed by the regulations.

(5) If the Institute is being wound up voluntarily and a vacancy occurs in the office of liquidator which, in the opinion of the Minister, is unlikely to be filled in the manner provided by the Companies (New South Wales) Code, the Minister may appoint a person to be liquidator.

(6) The Governor may make regulations for or with respect to any matter that by this section is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this section.

(7) In this section, "regulations" means regulations made under subsection (6).

Application of certain provisions of Companies (New South Wales) Code.

16. (1) Subject to subsection (2), the provisions of sections 541 and 542 and of sections 553 to 561, both inclusive, of the Companies (New South Wales) Code apply to and in respect of the Institute in the same way as they apply to and in respect of a company.

Garvan Institute of Medical Research.

(2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

- (a) references therein to a corporation or company were references to the Institute;
- (b) references therein to an officer or a director of a company included references to a director of the Institute;
- (c) section 553 (1) (d) were omitted;
- (d) paragraph (c) were omitted from—
 - (i) the definition of “appropriate officer” in section 553 (3); and
 - (ii) the definition of “relevant day” in section 553 (3); and
- (e) the reference in section 555 to section 267 of that Code were a reference to section 13.

Vesting, saving and transitional provisions.

17. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 7 (3).)

PROVISIONS RELATING TO THE DIRECTORS.

Interpretation.

1. (1) In this Schedule—

“Chairperson” means the Chairperson of the Board;

“Deputy Chairperson” means the Deputy Chairperson of the Board;

“nominated director” means a director other than the Executive Director;

“Treasurer” means the Treasurer of the Institute.

(2) A reference, whether made in writing or otherwise—

(a) to the Chairman or Chairwoman of the Board shall be treated as a reference to the Chairperson; or

(b) to the Deputy Chairman or Deputy Chairwoman of the Board shall be treated as a reference to the Deputy Chairperson.

Garvan Institute of Medical Research.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Directors.**

2. (1) Of the directors—

- (a) 3 shall be persons nominated by the Superior General of the Sisters of Charity;
- (b) 3 shall be persons nominated by the trustees of the land belonging to Saint Vincent's Hospital, Darlinghurst;
- (c) 2 shall be persons nominated by The Garvan Research Foundation under the Constitution as for the time being in force of that body promulgated by the Sister Administrator of that Hospital;
- (d) 2 shall be persons nominated by the Minister of State for Health of the Commonwealth;
- (e) 2 shall be persons nominated by the Minister of State for Health of New South Wales;
- (f) 2 shall be persons nominated by the Council of The University of New South Wales; and
- (g) 1 shall be a distinguished medical scientist elected by the other directors when required and in the manner prescribed by the by-laws.

(2) A person of or above the age of 70 years is not eligible to be appointed as a director.

Officers of the Board.

3. (1) The nominated directors shall elect from among their number, when required and in the manner prescribed by the by-laws—

- (a) a Chairperson of the Board;
- (b) a Deputy Chairperson of the Board; and
- (c) a Treasurer of the Institute.

(2) A person who holds the office of Chairperson, Deputy Chairperson or Treasurer shall be deemed to have vacated that office if the person—

- (a) is removed from that office by the Board under subclause (3);
- (b) resigns that office by instrument in writing addressed to the Board; or
- (c) ceases to be a director.

(3) The Board may remove a person from the office of Chairperson, Deputy Chairperson or Treasurer.

Garvan Institute of Medical Research.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Acting directors, etc.**

4. (1) The Governor may, from time to time, appoint a person to act in the office of a director during the illness or absence of the director if the person so appointed has the same qualifications as were required by clause 2 of the director, and the person, while so acting, shall have and may exercise all the functions of the director.

(2) The Governor may remove any person from the office to which the person was appointed under subclause (1).

(3) The Deputy Chairperson shall, during the illness or absence of the Chairperson, act in the office of the Chairperson and shall have and may exercise all the functions of the Chairperson.

(4) The Board may, from time to time, appoint a nominated director to act in the office of the Deputy Chairperson or Treasurer during the illness or absence of the Deputy Chairperson or Treasurer, as the case may be, and the nominated director, while so acting, shall have and may exercise all the functions of the Deputy Chairperson or Treasurer, as the case may be.

(5) The Board may remove any person from any office to which the person was appointed under subclause (4).

(6) For the purposes of this clause—

- (a) a vacancy in the office of a director, the Chairperson, the Deputy Chairperson or the Treasurer shall be deemed to be an absence from that office; and
- (b) the Deputy Chairperson shall be deemed to be absent from office as Deputy Chairperson during any period that the Deputy Chairperson acts in the office of Chairperson pursuant to subclause (3).

(7) In subclauses (1), (3) and (4), clauses 8, 9 and 10 and Schedule 2—

- (a) a reference to a director, the Chairperson, the Deputy Chairperson or the Treasurer includes a reference to a person acting in the office of a director, the Chairperson, the Deputy Chairperson or the Treasurer;
- (b) a reference to the appointment of a director includes a reference to the appointment of a person to act in the office of a director; and
- (c) a reference to the office of a director, the Chairperson, the Deputy Chairperson or the Treasurer includes a reference to the office of a person appointed to act in the office of a director, the Chairperson, the Deputy Chairperson or the Treasurer.

Garvan Institute of Medical Research.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Terms of office.**

5. Subject to this Schedule, a director shall hold office for such period not exceeding 5 years as may be specified in the instrument of appointment of the director, but is eligible (if otherwise qualified) for re-appointment.

Filling of vacancy in office of director.

6. In the event of the office of any director becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) A director shall be deemed to have vacated office if the director—

- (a) dies;
- (b) absents himself or herself from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given to the director personally or in the ordinary course of post and the director is not before the expiration of 6 weeks after the last of those meetings excused by the Board for being absent from those meetings, unless the absence is occasioned by illness or other unavoidable cause;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Chairperson or, in the case of the Chairperson, to the Minister;
- (g) attains the age of 70 years; or
- (h) is removed from office by the Governor under subclause (2) or (3).

(2) The Governor may remove a director from office.

(3) Without affecting the generality of subclause (2), the Governor may remove from office a director who contravenes the provisions of clause 8.

Garvan Institute of Medical Research.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.***Disclosure of pecuniary interests.**

8. (1) A director who has a direct or indirect pecuniary interest—
- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Board; or
 - (b) in a thing being done or about to be done by the Board,

shall, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a director at a meeting of the Board that the director—
 - (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 Board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Board from time to time.

(4) After a director has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the director shall not, unless the Board (in the absence of the director) otherwise determines—

- (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a director contravenes the provisions of this clause, that contravention does not invalidate any decision of the Board or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a director in a matter or thing which arises by reason only that the director is a medical practitioner.

Garvan Institute of Medical Research.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE DIRECTORS—*continued.*

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

Effect of certain other Acts.

9. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a director and a director is not, as a director, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a director.

(3) The office of a director shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Liability of directors, etc.

10. No matter or thing done by the Board, and no matter or thing done by any director or by any person acting under the direction of the Board shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a director or a person so acting personally to any action, liability, claim or demand whatever.

SCHEDULE 2.

(Sec. 7 (4).)

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.

General procedure.

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

Quorum.

2. Eight directors shall form a quorum and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise all the functions of the Board.

Garvan Institute of Medical Research.

SCHEDULE 2—*continued.*PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD—*continued.***Presiding director.**

3. (1) At a meeting of the Board—

- (a) the Chairperson;
- (b) in the absence of the Chairperson—the Deputy Chairperson; or
- (c) in the absence of the Chairperson and the Deputy Chairperson—another director elected as chairperson for the meeting by the directors present,

shall preside as chairperson.

(2) The person acting as chairperson at any meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

4. A decision supported by a majority of the votes cast at a meeting of the Board while a quorum is present shall be the decision of the Board.

Minutes.

5. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

First meeting of the Board.

6. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

Garvan Institute of Medical Research.

SCHEDULE 3.

(Sec. 17.)

VESTING, SAVING AND TRANSITIONAL PROVISIONS.

Interpretation.

1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“former Institute” means the institute known immediately before the appointed day as the Garvan Institute of Medical Research.

Vesting of assets, etc.

2. (1) On and from the appointed day—

- (a) all personal property, all rights and interests therein and all control and management thereof that, immediately before that day, belonged to or was or were vested in the Sisters of Charity and used for the purposes of the former Institute shall vest in the Institute;
- (b) all deeds, contracts, agreements, arrangements and undertakings entered into by or on behalf of the Sisters of Charity for the purposes of the former Institute and in force immediately before that day shall be deemed to be deeds, contracts, agreements, arrangements and undertakings entered into by the Institute;
- (c) any action, arbitration or legal or other proceeding which was immediately before that day pending or subsisting by or in favour of or against the Sisters of Charity in respect of the former Institute shall not be abated or discontinued or prejudiced by reason of the provisions of this Act but may be prosecuted, continued or enforced by or in favour of or against the Institute in the same manner in which it might have been prosecuted, continued or enforced by or in favour of or against the Sisters of Charity if this Act had not been enacted;
- (d) all acts, matters and things of a continuing nature and pertaining to the former Institute made, done or commenced before that day by the Sisters of Charity which have any force or effect or are capable of acquiring any force or effect shall be deemed to have been made, done or commenced by or in relation to or on behalf of the Institute and shall have effect and may be continued or completed by or in relation to or on behalf of the Institute accordingly; and

Garvan Institute of Medical Research.

SCHEDULE 3—*continued.*VESTING, SAVING AND TRANSITIONAL PROVISIONS—*continued.*

- (e) the benefit of all work and research carried out by the former Institute prior to that day and all industrial property rights (including, without limiting the generality of that expression, patents, copyrights, trademarks, registered designs, secret information and know-how) and the right to apply for any such industrial property rights which immediately before that day were vested in the Sisters of Charity as a consequence or by reason of that work or research shall vest in the Institute.

(2) Nothing in subclause (1) affects the estate or interest held, immediately before the appointed day, by the trustees of the land belonging to Saint Vincent's Hospital, Darlinghurst, in that land.

Agreement to certain conditions.

3. Where any property, right or interest to which clause 2 (1) (a) applies was acquired before the appointed day by the Sisters of Charity by gift inter vivos, devise or bequest subject to a condition agreed to by or on behalf of the Sisters of Charity, the Institute shall be deemed to have agreed, under section 6 (3), to the condition subject to which the property, right or interest, as the case may be, was acquired.

Variation of certain instruments.

4. (1) The Declaration of Trust dated 5th November, 1962, and made by Edna Mavis Skewes, Margaret Alma Peardon and Frederick McDonough, a copy of which was registered at the office of the Registrar-General as Number 350, Book 2633 shall have effect as if—

- (a) references in clauses 1, 2 and 3 of that instrument to the Trustees or the Trustees for the time being of Saint Vincent's Hospital were references to the Board;
- (b) the reference in clause 3 (a) (i) of that instrument to a Director of Clinical Medical Research were a reference to the Executive Director;
- (c) the reference in clause 3 (a) (i) of that instrument to the Director's being appointed by the Trustees for the time being of Saint Vincent's Hospital were a reference to the Executive Director's being elected by the nominated directors, within the meaning of Schedule 1; and

Garvan Institute of Medical Research.

SCHEDULE 3—*continued.*

VESTING, SAVING AND TRANSITIONAL PROVISIONS—*continued.*

- (d) the reference in clause 3 (a) (ii) of that instrument to research in Clinical Medicine were a reference to research in the field of human medicine promoted by the Institute in accordance with its objects, and as if clauses 4 and 6 of that instrument were omitted therefrom.
- (2) The Constitution of The Garvan Research Foundation (St. Vincent's Hospital, Sydney) dated 22nd December, 1980, shall have effect as if—
- (a) references wherever occurring in that instrument to the Garvan Institute of Medical Research or the Institute were references to the Institute, within the meaning of this Act; and
- (b) references wherever occurring in that instrument to the Director of the Garvan Institute of Medical Research were references to the Executive Director.

Saving of certain gifts.

5. A reference in any instrument to the Garvan Institute of Medical Research, being a reference made in relation to a gift inter vivos, devise or bequest of any interest in real or personal property which would, but for this Act, have vested on or after the appointed day in any person in trust for the purposes of the former Institute shall be read and construed as a reference to the Institute.

Dissolution of former Institute.

6. The former Institute is hereby dissolved.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 28th June, 1984.*

