

The Brandon University Act

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CHAPTER B90

THE BRANDON UNIVERSITY ACT

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CHAPTER 48

THE BRANDON UNIVERSITY ACT

(Assented to June 29, 1998)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

DEFINITIONS

Definitions

1 In this Act,

“**academic staff**” includes professors, associate professors, assistant professors, lecturers and any other persons designated as academic staff in the by-laws of the board;

“**alumni association**” means the association recognized by the board as being representative of the graduates of Brandon College or the university;

“**board**” means the Board of Governors of the University;

“**senate**” means the Senate of the university;

“**student**” means a person enrolled as a student of the university in a course for which he or she will receive academic credit and includes a person designated as a student by resolution of the senate;

“**university**” means Brandon University.

CONTINUATION OF THE UNIVERSITY

Brandon University continued

2(1) Brandon University is continued as a corporation without share capital composed of the members of the board.

Corporations Act not to apply

2(2) *The Corporations Act* does not apply to the university.

Purposes and objects

3(1) The purposes and objects of the university are

- (a) the advancement of learning and the creation, preservation and dissemination of knowledge; and

- (b) the intellectual, social, ethical and physical development and improvement of its students and employees and of society.

Specific powers

3(2) To further its purposes and objects the university may

- (a) establish and maintain with colleges, faculties, schools, institutes, departments, chairs and courses of instruction as the board considers appropriate;
- (b) give instruction and training in all branches of learning;
- (c) grant degrees, including honorary degrees, diplomas and certificates of proficiency;
- (d) provide facilities for original research in every branch of learning, and conduct or facilitate the conducting of such research; and
- (e) generally promote and carry on the work of a university.

General powers

4 The university has the capacity, rights and powers of a natural person for carrying out its purposes and objects.

BOARD OF GOVERNORS

Board of Governors

5(1) The Board of Governors is continued as the governing body of the university.

Members

5(2) The board shall consist of the following members:

- (a) the chancellor of the university;
- (b) the president of the university;
- (c) one alumni of the university elected by the alumni association;
- (d) two members of the senate elected by the senate;
- (e) two students appointed by the council of Brandon University Students' Union who are members of that council;
- (f) ten persons appointed by the Lieutenant Governor in Council, two of whom are students.

Canadian citizenship

5(3) A member of the board, other than a student member, must be a Canadian citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada).

Term of office

6(1) Except as provided in this section, each member of the board is to hold office for three years, beginning on July 1 of the year the member is elected or appointed and continuing until a successor is appointed or elected.

Term of student members

6(2) A student member of the board is to hold office for one year.

Term of senate members

6(3) A member of the board elected by the senate is to hold office for two years.

No application to president and chancellor

6(4) This section does not apply to the president and the chancellor of the university, who are members of the board as long as they remain president and chancellor.

Re-appointment or re-election

7(1) A member of the board who holds a three year term is eligible to be appointed or elected for a second term of three years, but not for a further term until at least 3 years has elapsed since the end of the member's second term.

Exception

7(2) Despite subsection (1), the board may permit a member to serve a third term, but only if not more than $\frac{1}{4}$ of the members of the board are serving a third term at any one time.

Vacancies

8(1) The board shall declare a vacancy on the board when

- (a) a member dies or resigns;
- (b) a member, other than the president or the chancellor, fails to attend three consecutive meetings without the board's permission, which may be given retroactively; or
- (c) a membership is terminated under subsection (2) or (3).

Vacancy if member incapable

8(2) If an elected or appointed member of the board becomes incapable of acting as a member, the board may so advise the body that elected or appointed the member, and that body may then terminate the membership and advise the board and the member that it has done so.

Vacancy if electing or appointing body terminates

8(3) A body that has elected or appointed a member of the board may terminate the membership at any time by giving written notice to the member and to the board.

Filling vacancies

9(1) When an elected or appointed member's position on the board is vacant, the board shall inform the body that elected or appointed the member of the vacancy, and that body shall promptly elect or appoint a successor to hold office for the remainder of the term.

If new appointment not made

9(2) If the body does not elect or appoint a replacement within 90 days after the board gives it notice, the board may itself appoint a successor, except where the member was appointed by the Lieutenant Governor in Council.

Remainder of the term

9(3) The appointment of a successor to fill the remainder of another member's term shall not be considered a term of office for the purpose of section 7.

Remuneration

10 The members of the board shall not receive remuneration for performing their duties as members, but the board may reimburse them for their reasonable expenses.

Chair and vice-chair

11(1) The board shall elect annually one of its members as the chair of the board and another member as vice-chair.

Acting chair

11(2) If the chair is absent or unable to act or if the office is vacant, the vice-chair has the powers and shall perform the duties of the chair.

Role of the Board of Governors

12(1) The board has overall responsibility for the university, and may determine all matters of university policy except those specifically assigned to the senate by this Act.

Powers of the Board of Governors

12(2) Without limiting subsection (1), the board may

- (a) appoint the president of the university and determine his or her term of office and remuneration;
- (b) engage academic and other staff as required, determine their duties and conditions of employment, and set their salaries and honoraria;
- (c) determine the administrative and academic organization of the university;
- (d) establish programs, services and facilities to further the university's purposes and objects, either by the university alone or in co-operation with others;

- (e) establish rules and procedures for the conduct of its own proceedings, including establishing standing and other committees and determining when and in what manner meetings of the board and standing committees may be held, and fixing a quorum;
- (f) exercise initial disciplinary jurisdiction over the non-academic conduct of students, including the power to expel or suspend for cause;
- (g) borrow money that may, in any fiscal year, be required to meet the ordinary expenditures of the university until the revenues for that fiscal year are available, and, with the approval of the Lieutenant Governor in Council, borrow money for any other purpose;
- (h) subject to the limitations imposed by any trust, invest money belonging to the university, or held by it in trust, in any kind of property, whether real, personal or mixed, exercising the judgment and care that a person of prudence, discretion and intelligence would exercise in administering the property of others;
- (i) enter into agreements or arrangements to further the university's purposes and objects, and designating the appropriate signing officers for agreements and other documents;
- (j) enter into any arrangement with a governmental authority in Canada with respect to giving assistance to a college or university outside Canada by supplying teaching staff, supervising staff, or otherwise
- (k) enter into agreements with any incorporated society or association in the province to establish and maintain a joint system of instruction;
- (l) enter into agreements with any incorporated society or association in the province that has power to prescribe examinations for admission to, or registration with, the society or association, concerning conducting examinations, prescribing courses of study and providing instruction;
- (m) enter into agreements with other universities or colleges for the instruction of their students in courses taken in a faculty of the university and for conducting examinations of those students and their use of the university's facilities;
- (n) set fees and all other charges to be paid to the university for instruction in courses and for services offered by the university;
- (o) either on the recommendation of the senate or on the board's own initiative after consultation with the senate, authorize affiliation between the university and other academic institutions;

- (p) establish pension and other plans, either contributory or non-contributory, to provide retirement and other benefits for employees of the university;
- (q) transfer funds or any other property of the university to the Brandon University Foundation for purposes of investment and management on behalf of and in trust for the University;
- (r) retain custody and control of all university records;
- (s) select and use a coat of arms and crest for the university;
- (t) do any other thing that the board considers necessary or advisable to carry out the objects and purposes of the university under this Act.

Investments donated to the university

12(3) Noting in clause (2)(h) precludes the university from holding any type of bond, debenture, stock, share or other investment donated to it, or from carrying the terms of a deed of trust.

By-law or resolution

12(4) Except as otherwise provided in this Act, the board may act by by-law or resolution.

Delegation

13 The board may delegate any of its powers or duties to any committee of the board or any person.

THE SENATE

Senate

14(1) The Senate of the university is continued, consisting of the following members:

- (a) the chancellor of the university;
- (b) the president of the university;
- (c) the vice-presidents of the university;
- (d) the deputy minister of the department whose minister is responsible for *The Council on Post-Secondary Education Act*, or his or her designate;
- (e) the deans of each faculty and school in the university;
- (f) the director of the Educational Technology Unit or, if there is none, the person exercising comparable functions;

- (g) the chair of the Bachelor of General Studies degree program or, if there is none, the person exercising comparable functions;
- (h) the University Librarian or, if there is none, the person exercising comparable functions;
- (i) the Dean of Students or, if there is none, the person exercising comparable functions;
- (j) one member of the board appointed by the board;
- (k) one representative from each faculty or school who has been on the staff of the university for at least two years, elected by and from the staff of that faculty or school;
- (l) six professors or associate professors of the university, elected by the professors, associate professors, assistant professors and lecturers;
- (m) two assistant professors or lecturers of the university who have been on the staff of the university for at least two years, elected by the professors, associate professors, assistant professors, and lecturers;
- (n) one member of the rank of professional associate of the university elected by the members of that rank;
- (o) eight students elected or appointed as follows:
 - (i) one appointed by the executive of the Brandon University Students' Union who is a member of that executive.
 - (ii) one elected from each faculty or school of the university,
 - (iii) the remainder elected from the student body of the university at large.

Disputes about membership

14(2) If there is a dispute as to who qualifies for membership on the senate under clause (1)(f), (g), (h), or (i), the matter shall be referred to the minister responsible for *The Council on Post-Secondary Education Act* or his or her designate for a decision, and the decision of the minister or designate is final and binding on the senate.

Two or more positions

14(3) A member who hold more than one position on the senate is entitled to only one vote on any matter before the senate.

Term of Office

15(1) Elected and appointed members of the senate, other than student members, are to hold office for two years, beginning on July 1 of the year in which they are elected or appointed.

Term of student members

15(2) Student members of the senate are to hold office for one year, beginning on the 1st day of July of the year in which they are elected.

Term of *ex officio* members

15(3) *Ex officio* members referred to in clauses 14(1)(a) to (i) are to hold office until they cease to hold the position that qualify them for membership.

Eligibility to be re-appointed or re-elected

15(4) An elected or appointed member of the senate is eligible for re-election or re-appointment, but the senate may set a maximum number of consecutive terms of office that any member may hold.

Filling vacancies

16(1) When an elected or appointed member's position on the senate is vacant, the senate shall inform the body that elected or appointed the member of the vacancy and that body shall promptly elect or appoint a successor to hold office for the remainder of the term.

If new appointment not made

16(2) If the body does not elect or appoint a successor within 90 days after the senate gives it notice of a vacancy, the senate may itself appoint a successor.

Remuneration

17 The members of the senate shall not receive remuneration for performing their duties as members, but the senate may reimburse them for their reasonable expenses.

Chair

18(1) The president of the university shall be the chair of the senate.

Acting Chair

18(2) If the president of the university is absent or unable to act as chair, the vice-president (academic and research) or, in his or her absence, an academic dean appointed by the president, shall be the chair at meetings of the senate.

Secretary

18(3) The registrar of the university or, if there is none, the person exercising comparable functions shall be the secretary of the senate.

Meetings

19(1) The senate shall meet at least four times a year and may meet more often if its rules so provide.

Special meetings

19(2) The secretary of the senate shall call special meetings at the request of the chair or at the written request of at least four members of the senate.

Senate responsible for academic policy

20(1) The senate is responsible for the academic policy of the university.

Powers of the senate

20(2) Without limiting subsection (1), the senate may

- (a) establish rules and procedures for the conduct of its proceedings, including fixing a quorum;
- (b) elect the chancellor of the university;
- (c) appoint any standing and other committees that it considers necessary;
- (d) consider and determine all courses of student, including requirements for admission, examination and graduation;
- (e) recommend to the board the establishment of additional faculties, school, departments, chairs and courses of instruction;
- (f) determine the degrees, honorary degrees, diplomas and certificates of proficiency to be granted by the university, and the persons to whom they are to be granted;
- (g) award scholarships, medals and prizes;
- (h) make rules and regulations respecting the academic conduct and activities of students;
- (i) consider and make recommendations to the board about any other matters that the senate considers appropriate for achieving the objects and purposes of the university.

Delegation

20(3) The senate may delegate to any standing or other committee of the senate any of its powers and duties.

THE CHANCELLOR

Chancellor

21(1) There is to be a chancellor of the university elected by the senate for a term of three years.

Term continues

21(2) The chancellor continues to hold office after his or her term expires until re-elected or until a successor is elected.

Eligibility for re-election

21(3) The chancellor is eligible for re-election.

Vacancy

21(4) If a vacancy occurs in the office of chancellor before the end of the term, the successor elected to replace the incumbent chancellor is to hold office for the remainder of the incumbent's term.

President is vice-chancellor

22(1) The president of the university is the vice-chancellor of the university.

Acting chancellor

22(2) If the chancellor is absent or unable to act or if the office is vacant, the vice-chancellor has the powers and shall perform the duties of the chancellor.

Duties of the chancellor

23 The chancellor is the titular head of the university and, in addition to his or her other duties, shall confer all degrees.

THE PRESIDENT

Duties and powers of the President

24 The president is the chief executive officer of the university and, in addition to any other duties of the president under this Act.

- (a) shall have general supervision over direction of the operation of the university, including the academic work of the university;
- (b) shall supervise the teaching staff, officers, employees and students of the university;
- (c) may consider and make recommendations to the board or the senate about any matters that affects the university;
- (d) is an *ex officio* member of every committee of the board and the senate; and
- (e) has any other powers and duties assigned by the board.

GENERAL PROVISIONS

Fiscal year

25 The fiscal year of the university shall begin on April 1 and end on March 31 of the following year.

Audit

26 The Provincial Auditor, or any other auditor appointed by the Lieutenant Governor in Council, shall audit the accounts of the university at least once a year and make a written report on the audit to the board and to the Lieutenant Governor in Council.

Mandatory retirement: definitions

27(1) In this section,

“**managerial staff**” mean persons who perform executive, management or senior administrative functions and includes deans, associate deans, heads of administrative units, administrative assistants, and other persons performing similar functions who are designated as managerial staff by the board;

“**professional staff**” means persons who are members of a profession regulated by an Act of the Legislature who are employed by the university in their professional capacity.

Mandatory retirement under a collective agreement

27(2) The university and a union or bargaining agent representing the academic, managerial or professional staff of the university may enter into a collective agreement that imposes or has the effect of imposing a mandatory retirement age of 65 years or over on that staff.

Mandatory retirement for excluded employees

27(3) The board may, by by-law, impose a mandatory retirement age of 65 years or over on the academic, managerial or professional staff of the university who are not covered by a collective agreement if

- (a) the university has entered into a collective agreement or agreements with academic staff that imposes or has the effect of imposing a mandatory retirement age of 65 years or over; and
- (b) the mandatory retirement age specified in the by-law is the same as the age specified in a collective agreement.

Application of Human Rights Code

27(4) When a collective agreement is entered into or a by-law is made under this section,

- (a) the requirement to retire at the age specified in the collective agreement or the by-law is deemed to be a *bona fide* and reasonable employment and occupational

requirement for the purpose of section 14 of *The Human Rights Code* (discrimination in employment); and

- (b) section 12 of the Code (reasonable accommodation) is deemed to be compiled with.

Examinations either in English or French

28 An examination for a degree to be conferred by the university may be answered by the candidate in either the English or French language.

Protection from personal liability

29(1) No action or other proceeding for damages shall be instituted against a member of the board of the senate for any act done in good faith in the execution or intended execution of his or her duties as a member of the board or the senate or for any neglect or default in the execution, in good faith, of those duties.

No liability for actions of students

29(2) No action or other proceeding for damages shall be instituted against the university, the board, the senate or any member of the board or senate or any officer or employee of the university for any act or omission of any of them with respect to any activity of a student.

No expropriation of university property

30 No one other than the Crown may take expropriation proceedings against property vested in the university, and the Crown may only do so if the Act conferring the power to expropriate is made specifically applicable to the university.

Prohibition on use of name and coat of arms

31(1) Except with the permission of the board, no person shall

- (a) use or adopt the name “Brandon University”, or any abbreviation of it or any word or words likely to be confused with it,
 - (i) as part of or in connection with the name of any business or undertaking,
 - (ii) in any advertising, or
 - (iii) in the name of any thing, place or building; or
- (b) assume or use the university’s coat of arms or crest, or any design imitating it or calculated or likely to deceive by its resemblance to the university’s coat of arms or crest.

Board may authorize use

31(2) The board may authorize any person, corporation or organization to use the university's name, coat of arms or crest subject to any conditions the board may determine.

Offence

31(3) A person who contravenes this section is guilty of an offence and is liable, on summary conviction, to a fine of not more than \$1,000.

C.C.S.M. reference

32 This Act may be referred to as chapter B90 of the *Continuing Consolidation of the Statutes of Manitoba*.

Coming into force

33 This Act comes into force on July 1, 1998.