



New South Wales

Skills Board Bill 2013

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2013



New South Wales

Skills Board Bill 2013

Act No , 2013

An Act to constitute and confer functions on the NSW Skills Board; to repeal the *Board of Vocational Education and Training Act 1994*; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Skills Board Act 2013*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Definitions

(1) In this Act:

appointed member means a member of the Board who is appointed by the Minister.

Board means the NSW Skills Board constituted under Part 2.

function includes a power, authority or duty, and ***exercise*** a function includes perform a duty.

member means an appointed or ex-officio member of the Board.

(2) Notes included in this Act do not form part of this Act.

Part 2 Constitution and functions of Board

4 Constitution of Board

- (1) There is constituted by this Act a body corporate with the corporate name of the NSW Skills Board.
- (2) The Board is, for the purposes of any Act, a NSW Government agency.

5 Members of Board

- (1) The Board is to consist of:
 - (a) not more than 8 part-time members appointed by the Minister, and
 - (b) the Chief Executive of the Office of Education, Department of Education and Communities, or a person nominated by the Chief Executive.
- (2) The appointed members must be persons who, in the opinion of the Minister, together have the relevant skills and experience including:
 - (a) a sound knowledge of skills development and higher education, and
 - (b) high-level experience of market operations, and
 - (c) a strong understanding of financial, risk and project management.
- (3) One of the appointed members is, by the instrument of that member's appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board.
- (4) One of the appointed members may, by the instrument of that member's appointment as a member or by a subsequent instrument executed by the Minister, be appointed as the Deputy Chairperson of the Board.
- (5) The regulations may make provision for or with respect to the appointment of persons as members of the Board, including provision for or with respect to the qualifications required for appointment.
- (6) Schedule 1 contains provisions with respect to the members and procedure of the Board.

6 Functions of Board

The Board has the following functions:

- (a) to provide the Minister with an independent, strategic perspective on the vocational education and training system in New South Wales,
- (b) to oversee major reform of the vocational education and training system in New South Wales and its implementation, including reform that maintains the TAFE Commission as the major provider of vocational education and training, accessible across New South Wales,
- (c) to monitor and advise the Minister on the performance of the vocational education and training system in New South Wales, including financial performance, fiscal sustainability, levels of training activity and the achievement of State priorities,
- (d) to advise the Minister on the allocation of State and Commonwealth vocational education and training funding and the New South Wales vocational education and training budget,
- (e) to collect and analyse labour market intelligence, in particular, intelligence on skills shortages and future skills and workforce development needs in New South Wales,

- (f) to coordinate the development of strategic skills plans that reflect the priorities and directions of the New South Wales Government regarding vocational education and training,
- (g) to oversee quality assurance in the vocational education and training system in New South Wales,
- (h) to ensure the availability of accurate consumer information on vocational education and training in New South Wales and appropriate consumer protections,
- (i) to commission and conduct inquiries and research into any matter relevant to the functions of the Board,
- (j) to advise on strategies for more effective educational pathways between secondary school, vocational training and higher education in New South Wales,
- (k) to consult widely with reference groups and other representative bodies and persons in the vocational education and training industry,
- (l) to investigate and advise the Minister on any matter relating to training, skills development and higher education referred to the Board by the Minister or on its own initiative,
- (m) such other functions conferred or imposed on it by or under this or any other Act.

7 Delegation by Board

The Board may delegate to any person or body approved by the Minister the exercise of any of its functions, other than this power of delegation.

8 Ministerial control

The Board is subject to the control and direction of the Minister in the exercise of its functions, except in relation to the contents of any report, recommendation or advice made or given by it.

9 Use of services and facilities

The Board may, to enable it to exercise its functions, arrange for the use of:

- (a) the services of persons employed in the Department of Education and Communities (whether by way of secondment or otherwise), including but not limited to the services of persons to act in the roles of Executive Director and Executive Officer of the Board, and
- (b) any facilities of any government agency.

Part 3 Miscellaneous

10 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

11 Delegation of Minister's functions

The Minister may delegate to any person the exercise of the Minister's functions under this Act, other than this power of delegation.

12 Personal liability

- (1) A matter or thing done or omitted to be done by:
 - (a) the Board, or
 - (b) a member of the Board, or
 - (c) a person acting under the direction of the Board,does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject a member of the Board or a person so acting personally to any action, liability, claim or demand.
- (2) A reference in subsection (1) to the execution of this Act includes a reference to the execution of the provisions of any other Act that confer or impose functions on the Board.

13 Regulations

The Governor may make regulations, 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.

14 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Members and procedure of Board

Part 1 Members

1 Terms of office of appointed members

Subject to this Schedule and the regulations, an appointed member holds office for the period (not exceeding 3 years) specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

2 Remuneration of appointed members

An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

3 Vacancy in office of appointed member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings, or
 - (f) 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, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office at any time.
- (3) The Chairperson or the Deputy Chairperson is taken to have vacated office as Chairperson or Deputy Chairperson respectively if he or she resigns office by instrument in writing addressed to the Minister or ceases to be a member.

4 Acting Chairperson, Deputy Chairperson or member

- (1) The Minister may appoint a person to act in the office of an appointed member during the illness or absence of the appointed member, and the acting member, while so acting, has and may exercise all the functions of the appointed member and is taken to be an appointed member.
- (2) A person, in order to be appointed as an acting appointed member, must be qualified for appointment in the same way as the member for whom he or she is acting.
- (3) The Minister may appoint an appointed member to act in the office of Chairperson during the illness or absence of the Chairperson, and the acting Chairperson, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.

- (4) The Minister may appoint an appointed member to act in the office of Deputy Chairperson during the illness or absence of the Deputy Chairperson, and the acting Deputy Chairperson, while so acting, has and may exercise all the functions of the Deputy Chairperson and is taken to be the Deputy Chairperson.
- (5) A person who is acting as an appointed member, or as the Chairperson or Deputy Chairperson, is entitled, while so acting, to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (6) The Minister may at any time and for any reason remove a person from office as an acting appointed member or acting Chairperson or Deputy Chairperson.
- (7) For the purposes of this clause, a vacancy in the office of an appointed member is taken to be an absence from office of the member.

5 Effect of certain other Acts

- (1) The statutory provisions relating to the employment of Public Service employees do not apply to the appointment or office of an appointed member.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

Part 2 Procedure

6 General procedure

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

7 Quorum

The quorum for a meeting of the Board is 5 members.

8 Presiding member

- (1) The Chairperson of the Board (or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of the Deputy Chairperson, a person elected by the members of the Board who are present at a meeting of the Board) is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

9 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

10 Transaction of business outside meetings or by telephone

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing

approved in writing by a majority of those members is taken to be a decision of the Board.

- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, or closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile, email or other transmission of the information in the papers concerned.

11 Frequency of meetings

The Board is to meet at least 4 times each year.

12 Minutes

The Board must cause full and accurate minutes to be kept of the proceedings of each of its meetings.

13 First meeting

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

Schedule 2 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Definitions

In this Part:

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

former corporation means the New South Wales Board of Vocational Education and Training constituted under the *Board of Vocational Education and Training Act 1994* as in force immediately before its repeal by this Act.

liabilities means all liabilities, debts and obligations (whether present or future and whether vested or contingent and whether personal or assignable).

repeal date means the date on which the *Board of Vocational Education and Training Act 1994* is repealed by this Act.

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent and whether personal or assignable).

3 Abolition of former corporation

- (1) On the repeal date:
 - (a) the former corporation is abolished, and
 - (b) each person appointed as a member of the former corporation ceases to hold office as such a member and is taken to be appointed under this Act as a member of the Board for a period equivalent to the remainder of his or her term of appointment as a member of the former corporation and is eligible to be re-appointed at the end of that term, and
 - (c) any assets, rights and liabilities of the former corporation become the assets, rights and liabilities of the Board.
- (2) A person who ceases to hold office as a member of the former corporation is not entitled to any remuneration or compensation because of the loss of that office.

4 References to Board of Vocational Education and Training

A reference in any other Act, or in any instrument of any kind (including any contract or agreement) to the New South Wales Board of Vocational Education and Training is to be construed as a reference to the NSW Skills Board.

Schedule 3 Amendment of other legislation

3.1 Government Information (Public Access) Regulation 2009

Schedule 3 Agencies declared to be part of other agencies

Omit the matter relating to Board of Vocational Education and Training.

Insert in alphabetical order under the columns headed “**Subsidiary agency**” and “**Parent agency**” respectively:

NSW Skills Board

Department of Education and Communities

3.2 Public Finance and Audit Act 1983 No 152

[1] Schedule 2 Statutory bodies

Omit “New South Wales Board of Vocational Education and Training”.

[2] Schedule 2

Insert in alphabetical order:

NSW Skills Board

**Schedule 4 Repeal of Board of Vocational Education and
Training Act 1994 No 33**

The *Board of Vocational Education and Training Act 1994* is repealed.