



Education Amendment (Non-Government Schools Registration) Bill.

Second Reading

The Hon. CARMEL Tebbutt (Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Youth) [5.02 p.m.]: I move:

That this bill be now read a second time.

Governments have a clear obligation to articulate what we, as a community, expect from our schools. Governments also have an obligation to help parents make judgments about schools on the basis of objective and reliable information. Parents have to be confident that their school is capable of providing a quality learning environment. Parents who choose to send their children to a non-government school deserve to know that their choice is resulting in concrete benefits for their children. They want assurances that schools are providing responsive, effective and safe learning environments. And they want the information about school performance and policies that will help them know whether a school is meeting their expectations.

Today I introduce legislation that will help deliver these assurances. It will provide for greater transparency of school policies and practices. It will lead to more information being made available to parents about key school features and performance. It will encourage ongoing school improvement and responsiveness. And it will help provide parents and the wider community with information about the quality of education being delivered in non-government schools.

I want to state at the outset that we acknowledge the achievements of the non-government school sector, which has played, and will continue to play, a key role in providing diversity and choice for families. This bill is not about restricting choice, nor about restricting the capacity of non-government schools to meet the needs and expectations of their communities. The Government recognises that non-government schools are a vital part of the educational landscape in New South Wales and will continue to be one of the cornerstones of our system.

A constant in this Government's achievements in education has been a concern for standards and rigour. The changes we made to the School Certificate and the High School Certificate were about raising standards of student achievement, and this applies equally to the improvements we are making to government schools. The bill is about extending the same framework of standards for non-government schools. It follows the recommendations of the first report of the review of non-government schools, the Grimshaw report. Grimshaw found that standards for all schools should be about goals and expectations, not minimum or basic requirements.

The review also registered an increase in community expectations about school accountability. Parents, in particular, want schools to account more comprehensively for the outcomes being achieved by students. In New South Wales these expectations are being addressed in a number of ways. For example, an emphasis on standards and accountability has led to an outcomes-based curriculum and reporting framework for the School Certificate and Higher School Certificate.

The new emphasis on standards is reflected in syllabuses that set high expectations. It is also a requirement that in the reporting of student achievement, results are linked with specific performance standards. The Government sees it as appropriate to apply similar expectations consistently across all schools. There is a need for a regulatory framework that addresses quality and accountability in non-government schools so the community can be confident that high educational standards are being achieved across all sectors of schooling.

That is what this bill achieves, in the following ways. Firstly, like other public bodies, schools will need to be duly constituted as legal entities, with owners and operators clearly identifiable and accountable. Secondly, teaching staff at a non-government school will need to either attain, or be progressing toward, defined standards of professional teacher competence. Thirdly, schools will need to provide a safe and supportive environment by having in place policies and procedures that promote student welfare, as well as policies and procedures that show their compliance with the child protection requirements of other Acts. As well, the ban on corporal punishment introduced by the Government as an Australian first in 1995 will remain in place.

Fourthly, schools with boarding facilities will need to have in place documented policies and procedures to ensure the safety and welfare of boarders. They will also need to clarify that the boarding facility is provided by either the school itself or a provider who has a formal contractual relationship with the school. Fifthly, schools will have to base their courses of study on Board of Studies syllabuses. The bill makes available the option, however, for schools with particular philosophical or religious objections to present a case for using different material. Lastly, schools will need to have policies and procedures in place to ensure their capacity to participate in annual reporting.

I would like to point out that we are not asking non-government schools to do anything that government schools have not done, or will not do. The Act clearly stipulates that government schools must comply with the same requirements that apply to non-government schools. I do not propose to refer to the provisions of the bill in exhaustive detail as there is an extensive explanatory note. I would, however, like to refer briefly to the sections of the bill that are of greatest significance.

The amendments are set out in schedule 1 to the bill. The Government would like to assure the non-government school community at the outset that future changes to the requirements and the way they are interpreted in the Board of Studies' guidelines for schools will not be made without full and prior consultation with affected stakeholders. The Government recognises that change in education is best effected through consensus and co-operation, and it has no desire to force policy changes on the non-government school community without proper consultation and dialogue.

The Government would also like to reassure schools that the new requirements will not increase the liability of non-government schools to civil claims. The Government has made sweeping changes to civil liability legislation. This makes it extremely unlikely that non-government schools will face any additional liabilities as a result of this legislation. However, to absolutely ensure that the new requirements for registration do not give rise to any civil cause of action, the Government will move an amendment in relation to proposed new section 47.

Items [4] and [6] amend part 3 of the Act, and provide that courses of study for primary and secondary schooling respectively are to be based on, and taught in accordance with, syllabuses developed by the Board of Studies. Syllabuses developed by the Board of Studies describe in clear terms what students should know, understand and be able to do. However, in the classroom, board syllabuses provide considerable leeway for teachers to develop programs that take account of the nature of the learner, the ethos of the school and the expectations of the school community.

While each syllabus is designed to give schools the flexibility and discretion they need, they are also the outcome of a rigorous quality assurance process. That board syllabuses have the confidence of schools is shown by the fact that almost every school uses them. The prescription of the board's curriculum will ensure that all students have access to the same essential learning experiences. The fact that board syllabuses do not require a single approach also means that schools will continue to have the flexibility and discretion to adapt them to their needs.

The Government acknowledges that there will always be a small number of schools that, for philosophical or religious reasons, will find it very difficult to use board syllabuses in their entirety. To allow these schools to continue to offer the choice sought by their communities, clauses 5 and 7 of the bill provide for parts of syllabuses to be modified on application to the Board of Studies.

I now deal with item [9]. The intervening clauses deal with provisions of an administrative and ancillary nature, and I will return to them later. Item [9] inserts in the Act a new section 47, which is the heart of the bill. It renders, in legislative form, the Grimshaw proposals for school registration. Paragraph (a) of new section 47 contains the requirement for school proprietors to constitute themselves as appropriate legal entities. It is in the interests of both proprietors and parents that those who own and operate schools have an appropriate legal form. The legal responsibilities and liabilities of members of governing boards, councils or bodies need to be clearly defined and understood. Some schools become large enterprises that control very substantial resources. Others remain small concerns that are reliant on a handful of key personnel. In recognition of the variety of school types it will be a matter for each proprietor to decide on a legal form that is compatible with the school's philosophy and aims.

Paragraph (b) stipulates that each responsible person for the school must be of good character. The bill uses the same yardstick applying to public boards and authorities. That is, school proprietors, members of governing bodies and principals will be required to notify the Board of Studies if they are convicted of an offence punishable by 12 months or more in prison; become bankrupt or insolvent; or become mentally incapacitated. These requirements mirror those applying to appointments to public bodies around Australia. The same standards should apply to those enterprises whose business is the nurture and development of Australia's most precious asset—our children and young people. Paragraph (c) implements the Grimshaw recommendation that those responsible for the cancellation of a school's registration should be ineligible to run another school for five years from the date of the cancellation.

Paragraph (d) links requirements for registration to the Government's agenda for high teacher standards across the government and non-government school sectors. The Government sees a professional standards framework for teachers as playing a key part in a quality assurance framework for schooling. The bill provides for teaching staff in a non-government school to either attain, or be working towards, an appropriate standard of professional teacher competence. Teaching staff who have not attained the standard will also need to be under the direct on-site supervision of staff who have attained the standard.

We also want to proceed in ways that build on current levels of teacher professionalism. For this reason, when the standards come into effect, people with doctorates and other higher level qualifications who are currently teaching will continue to be able to teach. On the other hand, people without a degree and people who have only completed year 10 or 12 will not be able to take responsibility for delivering the mandatory curriculum to our students. This will, however, not affect the discretion of schools to employ specialists such as artists, chaplains, or youth workers who provide support as guests of the school.

Paragraphs (e) and (f) require schools to have premises, buildings and facilities that are adequate for the courses of

study at the school. These provisions are carried over from the current Act. Schools should be able to show that their classrooms, libraries, computer laboratories and other facilities are adequate to deliver their courses of study successfully.

Paragraph (g) requires schools to provide a safe and supportive environment for students. This requirement is aimed squarely at providing the best possible policy settings to ensure the safety and welfare of students. It concerns the extent to which a school has formal policies and procedures that establish a safe and caring environment in which students are nurtured and which responds to each student's personal and social needs. It also concerns the extent to which the school is complying with its child protection responsibilities. The provision will require schools to have policies in place providing for a safe and supportive environment. These policies will need to touch on matters such as security, supervision, pastoral care and codes of conduct, to name a few.

This Government was the first in Australia to introduce child protection legislation. We take very seriously our responsibility to make sure that those working with children are subject to the strictest standards of probity. We want to send the clearest possible message about our commitment to the care and protection of young people and to reinforce this commitment at every opportunity. That is why the bill includes specific reference to the key legislation for child protection—part 3A of the Ombudsman Act 1974 and part 7 of the Commission for Children and Young People Act 1998. We want to make sure that there is no doubt about what the obligations of schools are and that those obligations are followed through with clear and specific policies.

Paragraph (h) carries over from the current requirements the ban on corporal punishment; again, an Australian first, now emulated nationally. It also requires schools to base their discipline policies on the principles of procedural fairness—another Australian first. Paragraph (i) deals with the provision of boarding facilities. It requires these facilities to have policies and procedures that are satisfactory to ensure the safety and welfare of boarders. Any facility that plays a custodial role for young people must subscribe to and account for, appropriate standards of care. The bill will close a gap in the framework of legal protection for young people in residential care situations. We will be the first State to regulate boarding schools in this way.

Paragraph (j) provides the link between requirements for registration and the changes to part 3 of the Act, which I have already discussed. It is the provision by which non-government schools will be required, as a condition of registration, to base their courses of study on Board of Studies syllabuses. Paragraph (k) ensures that schools which offer part or all of their courses of study by distance education make appropriate provision for the social and personal development of their students. In item [1] "distance education" is defined as education in which students and teachers are not regularly in the presence of each other but communicate in writing, by print or by electronic or similar means.

Our requirements for schools need to anticipate new and emerging forms of schooling as much as possible. For several years now, schools have been taking advantage of advances in information technology. Many are now using the Internet to deliver lesson materials, conduct tutorials, provide access to libraries and disseminate and collect assignments. Schools are beginning to replicate on line many of the experiences and features that we previously assumed to be the exclusive preserve of the bricks-and-mortar institution. The possibility of using the Internet as a delivery mode adds a whole new dimension to our assumptions about what schooling is and how to ensure quality outcomes for all students, regardless of the setting. In tandem with the other requirements for registration, this provision will ensure that schools that operate in a "virtual" environment do not lose sight of their responsibility to help students develop a capacity to interact with others and to function as responsible members of the community.

Paragraph (i) introduces annual public reporting by non-government schools. Accountability should be one of the central features of our system of schools. Moreover, since quality outcomes for all students are important for the whole community, the forms of accountability should be similar for both government and non-government schools. Best practice in school reporting is well researched and documented. The research shows that the best frameworks have five features in common. First, the focus is on reporting to parents on the achievement of goals and school performance across a range of measures. Second, reports provide clear benchmarks. Third, the information is accurate and reliable. Fourth, schools work within the parameters of an agreed reporting framework. Finally, schools and school systems promote a culture of accountability.

It is precisely this type of culture that we want to encourage across all schools in New South Wales. In establishing common reporting, however, we recognise the diversity of the sector and its relative independence, and will give schools flexibility in how they will report. However, all schools will report on performance in statewide tests and examinations, teacher standards, retention rates, enrolment policies and profiles, student welfare policies, discipline policies, complaints and grievance resolution policies, school developed improvement priorities, and school income and expenditure.

In successive years the indicators may evolve, coinciding with changes in reporting in government schools. This is to ensure that reports across the government and non-government school sectors remain broadly consistent, with the same core features. Sub-paragraph (ii) of paragraph (l) refers to the provision by non-government schools of information for inclusion in the Minister's annual report to Parliament. It means that more information collected from the non-government schools sector will form part of the Minister's report to Parliament on schooling in New South Wales. Inclusion of data on the performance of the non-government schools sector will see the report become a better tool for accounting to Parliament and the community on the effectiveness of all our schools. The Grimshaw report made a number of recommendations for strengthening the processes for registration. The bill reflects these, as well as other

provisions necessary to give effect to the new registration requirements.

The definition of "responsible person" in item [1] will ensure that any person who is responsible for the overall control and direction of the school, either directly or indirectly, is subject to the good character provisions. Item [2] aligns the definition of a proprietor with the new legal entity requirement. Items [4], [5] and [6] relate to the new curriculum requirements, which I have already discussed. Item [7] provides for exemptions in certain circumstances. Item [8] tightens up requirements relating to schools that decide to withdraw from a system of non-government schools. It will require these schools to apply for registration within one month of leaving the system. At the moment, these schools can continue to operate under the terms of their system registration for an extended period.

Item [10] imposes the discipline on school proponents to make application for registration well ahead of the school's proposed opening date. This is to give the Board of Studies enough time to properly consider the application and work through any issues with the proprietor before classes commence. Item [19] makes similar provision for schools that are already registered and are approaching the end of their registration. Item [12] enacts the Grimshaw report recommendation regarding an initial 12-month period of registration, during which fledgling schools would be more closely monitored. Items [13], [17] and [18] allow the Minister to change the status of a school's registration if concerns arise about that school's continuing compliance with the requirements during the course of its five-year period of registration. Specifically, the items provide the means for the Minister to change a school's registration status to provisional or to otherwise vary the term of registration if the Board of Studies discovers serious deficiencies in the operation of the school.

These provisions are based on the Grimshaw recommendations for a series of graduated steps to be followed in the event of a school not complying with the requirements. The steps range from initial investigation by board officers to cancellation of the school's registration. Item [24] makes similar provisions with respect to the accreditation of schools for the School Certificate and/or Higher School Certificate. Item [16] reduces the term of registration from six years to five. This is to provide for more frequent compliance monitoring of schools. Item [23] is a cognate change to certificates of exemption from registration. Item [24] makes a similar change with respect to accreditation.

Item [20] supports the good conduct provisions. It makes clear the grounds on which persons responsible for a school are to notify the proper authorities of a change in their personal circumstances. As I have mentioned, the grounds are the same as those applying to members of other public boards and corporations. Item [21] reiterates the overall emphasis of the bill on standards by introducing a daily penalty for operating an unregistered school. New South Wales has a long tradition of excellence in education, and we acknowledge that the non-government sector has made a significant contribution to this tradition. The achievements of all schools, however, are made possible through policy and regulatory frameworks that are established by governments, taking into account the interests of the community as a whole. This bill is an important step forward on behalf of those interests. I commend the bill to the House.

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