



New South Wales

# Education and Teaching Legislation Amendment Bill 2016

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to rename and reconstitute the Board of Studies, Teaching and Educational Standards as the NSW Education Standards Authority (the **Authority**),
- (b) to provide for the Authority to have a governing Board comprising an independent Chairperson and up to 12 other members appointed by the Minister, along with a Chief Executive Officer who will be responsible for the day to day management of the activities of the Authority,
- (c) to require the Authority to have a charter (prepared by the Board of the Authority and approved by the Minister) outlining its key responsibilities and objectives and to provide that the Minister may, in an annual Statement of Expectations, determine priorities in relation to the Authority's functions,
- (d) to ensure that the functions of the Authority may be delegated to committees of the Board (which will include the Quality Teaching Committee established under the *Teacher Accreditation Act 2004*),
- (e) to authorise the Authority, in addition to its other functions under the education and teaching legislation, to conduct reviews into matters arising under that legislation,
- (f) to enable the Authority's inspectors to conduct audits and carry out inspections on education premises (which will include premises that are used to provide professional development in accordance with the professional teaching standards under the *Teacher Accreditation Act 2004* and the premises of teacher accreditation authorities under that Act)

- and to provide that the powers of an inspector may be exercised in relation to education premises without any requirement to give notice,
- (g) to ensure that the Authority is informed of the establishment, change of name or closure of government schools,
  - (h) to provide that the Authority is to monitor, and provide advice to the Minister and the Secretary of the Department of Education on, the compliance by government schools with similar requirements to those applying to non-government schools under section 47 of the *Education Act 1990* and to enable the Authority to recommend the taking of action in relation to any non-compliance with those requirements,
  - (i) to modify the registration requirements for non-government schools, including a new requirement that the school must be financially viable,
  - (j) to ensure that matters relating to the quality of student learning are taken into consideration in determining whether the registration requirements will be or are being complied with at or in relation to a school,
  - (k) to enable the Minister to impose conditions of registration in relation to non-government schools and to provide that the registration of a school may be revoked if such conditions are not complied with,
  - (l) to abolish the Quality Teaching Council and to re-establish it as a committee of the Board of the Authority to be known as the Quality Teaching Committee,
  - (m) to authorise the Authority (rather than the Minister) to approve of teacher education courses and programs in connection with the accreditation of teachers and to approve persons or bodies to provide professional development in accordance with the requirements of the professional teaching standards,
  - (n) to provide that the Authority (but not any other teacher accreditation authority) may suspend or revoke a person's accreditation as a teacher,
  - (o) to require employers of teachers and teacher accreditation authorities to notify the Authority of information that may be relevant to the grounds on which a teacher's accreditation may be suspended or revoked,
  - (p) to establish a new Public Service staff agency comprising those persons who are employed under the *Government Sector Employment Act 2013* to enable the Authority to exercise its functions and to provide for the Chief Executive Officer of the Authority to be the head of that staff agency,
  - (q) to make a number of other amendments to the education and teaching legislation that are of an administrative, minor or consequential nature.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## **Schedule 1      Amendment of Board of Studies, Teaching and Educational Standards Act 2103 No 89**

**Schedule 1 [1], [2], [4] and [10]** are consequential on the renaming of the Board of Studies, Teaching and Educational Standards as the NSW Education Standards Authority and on other amendments made by Schedule 1 relating to the reconstitution and new management structure of the Authority.

**Schedule 1 [6]** substitutes Part 2 of the *Board of Studies, Teaching and Educational Standards Act 2013* (which will be renamed by **Schedule 1 [3]** as the *Education Standards Authority Act 2013*) so as to constitute the Authority (as a continuation of the Board of Studies, Teaching and

Educational Standards) and to provide a new management structure for the Authority. The Authority will have a governing Board comprising an independent Chairperson and up to 12 other members appointed by the Minister, along with a Chief Executive Officer who will be responsible for the day to day management of the activities of the Authority. The staff of the Authority (including the Chief Executive Officer) will be employed under the *Government Sector Employment Act 2013*.

The new Part 2 also requires the Authority to have a charter (prepared by the Board of the Authority and approved by the Minister) outlining its key responsibilities and objectives in addition to those specified in the Part. Provision is included for the Minister, in an annual Statement of Expectations, to determine priorities in relation to the Authority's functions. The Authority will be authorised to conduct reviews into any matter arising under the education and teaching legislation. Part 2 also ensures that the functions of the Authority may be delegated to committees of the Board (which will include the Quality Teaching Committee established under the *Teacher Accreditation Act 2004*).

**Schedule 1 [5] and [20]** remove provisions relating to the office of President of Board of Studies, Teaching and Educational Standards as that office will be abolished as a consequence of the reconstitution of that former body as the Authority. **Schedule 1 [21]** provides that the existing President will be the Chairperson of the Board of the Authority.

**Schedule 1 [7]** enables the Authority's inspectors to conduct audits and carry out inspections on education premises. **Schedule 1 [9]** extends the meaning of *education premises* to include, in addition to schools and early childhood education centres, premises that are used to provide professional development in accordance with the professional teaching standards under the *Teacher Accreditation Act 2004* and the premises of teacher accreditation authorities under that Act.

**Schedule 1 [8]** provides that the powers of an inspector in relation to education premises may be exercised without any requirement to give notice.

**Schedule 1 [11]** updates a reference to the Quality Teaching Council to the Quality Teaching Committee established by **Schedule 3 [10]**.

**Schedule 1 [12]** corrects a cross-reference.

**Schedule 1 [13]** extends the agencies with which the Authority may enter into an information sharing arrangement with so as to include any Public Service agency.

**Schedule 1 [14]** modifies the manner in which documents under the education and teaching legislation may be served.

**Schedule 1 [15]** modifies the provision relating to the issuing of penalty notices for offences under the education and teaching legislation.

**Schedule 1 [16] and [17]** extend the matters for which the Authority may make rules to matters under the education and teaching legislation for which rules may be made and to matters relating to the conduct of proceedings of committees of the Board of the Authority.

**Schedule 1 [18]** enables the Minister to delegate functions under the Act.

**Schedule 1 [19]** inserts provisions relating to the members and procedure of the Board of the Authority that are consistent with the standard provisions relating to boards of statutory corporations.

**Schedule 1 [21]** contains savings and transitional provisions consequent on the enactment of the proposed Act.

## **Schedule 2      Amendment of Education Act 1990 No 8**

**Schedule 2 [1], [2], [4] and [5]** are consequential on the amendments made by Schedule 1 to rename the Board of Studies, Teaching and Educational Standards as the NSW Education Standards Authority.

**Schedule 2 [3] and [20]** update references relating to the Department of Education and the name of the Act amended by Schedule 1.

**Schedule 2 [6] and [8]** provide that the Department informs the Authority of the establishment, change of name or closure of government schools.

**Schedule 2 [7]** provides that the Authority is to monitor, and provide advice to the Minister and the Secretary of the Department on, the compliance by government schools with similar requirements to those applying to non-government schools and to enable the Authority to recommend the taking of action in relation to any non-compliance with those requirements.

**Schedule 2 [9]** provides that the financial viability of a non-government school will be a requirement for registration.

**Schedule 2 [10]** replaces the requirement that each responsible person for a non-government school must be of good character with the requirement that such persons be fit and proper persons.

**Schedule 2 [11]** ensures that matters relating to the quality of student learning are taken into consideration in determining whether the registration requirements will be or are being complied with at or in relation to a school.

**Schedule 2 [12] and [16]** enable the Authority to request further information in relation to an application for registration of a non-government school or for the renewal of such registration.

**Schedule 2 [13]** enables the Minister to impose conditions of registration in relation to non-government schools and **Schedule 2 [14], [15], [17] and [18]** make provision for the revocation of the registration of a school (or for the reduction of the period of registration) if such conditions are not complied with.

**Schedule 2 [19]** provides that returns by non-government schools on the registration requirements relating to the school may be required to be certified by the person or body providing the return.

**Schedule 2 [21]** contains savings and transitional provisions consequent on the amendments made by Schedule 2 [9]–[18].

## **Schedule 3      Amendment of Teacher Accreditation Act 2004 No 65**

**Schedule 3 [1], [2], [4], [5] and [7]** are consequential on the amendments made by Schedule 1 to rename the Board of Studies, Teaching and Educational Standards as the NSW Education Standards Authority and on the abolition of the office of President of the former body.

**Schedule 3 [6] and [26]** update references relating to the Department of Education and the name of the Act amended by Schedule 1.

**Schedule 3 [10]** abolishes the Quality Teaching Council and re-establishes it (with new members) as a committee of the Board of the Authority to be known as the Quality Teaching Committee (the *QTC*). **Schedule 3 [3], [11], [27] and [29]–[38]** are consequential amendments.

**Schedule 3 [13]** provides that the Authority (rather than the Minister) may approve teacher education courses and programs in connection with the accreditation of teachers and approve persons or bodies to provide professional development in accordance with the requirements of the professional teaching standards. **Schedule 3 [8], [9] and [28]** are consequential amendments.

**Schedule 3 [17]** provides that only the Authority (and not any other teacher accreditation authority) may suspend or revoke a person's accreditation as a teacher. **Schedule 3 [12], [15], [16], [18]–[21], [23] and [24]** are consequential amendments and **Schedule 3 [14]** ensures that any procedures or guidelines under the professional teaching standards in relation to the revocation or suspension by the Authority of a person's accreditation as a teacher must be consistent with the rules of procedural fairness.

**Schedule 3 [22]** makes it clear that a person may surrender the person's accreditation as a teacher.

**Schedule 3 [25]** requires employers of teachers and teacher accreditation authorities to notify the Authority of information that may be relevant to the grounds on which a teacher's accreditation may be suspended or revoked.

**Schedule 3 [39]** contains savings and transitional provisions consequent on certain of the proposed amendments made by Schedule 3.

## **Schedule 4      Amendment of other legislation**

**Schedule 4.1** amends the *Government Information (Public Access) Regulation 2009* as a consequence of the amendment made by Schedule 4.2.

**Schedule 4.2** amends the *Government Sector Employment Act 2013* to update the name of the Public Service staff agency in which persons will be employed under that Act to enable the Authority to exercise its functions. The head of the staff agency will be the Chief Executive Officer of the Authority who will exercise employer functions in relation to the persons employed in the staff agency. The Minister will exercise employer functions in relation to the Chief Executive Officer.

**Schedule 4.3** amends the *Public Finance and Audit Act 1983* to ensure that the Authority is subject to the usual financial and annual reporting requirements that apply to statutory corporations.