

First print



New South Wales

# Royal Institute for Deaf and Blind Children Bill 1998

## 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 repeal, and re-enact and update certain provisions of, the *Royal New South Wales Institute for Deaf and Blind Children Act 1905* and to repeal other related Acts,
  - (b) to change the name of the Royal New South Wales Institute for Deaf and Blind Children to the Royal Institute for Deaf and Blind Children,
  - (c) to provide for the continuation of the Institute as a corporation run by a board of management,
  - (d) to provide for the election of board members and the procedure of board meetings.
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## Outline of provisions

### **Part 1 Preliminary**

**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 to be appointed by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act.

### **Part 2 Royal Institute for Deaf and Blind Children**

**Clause 4** provides for the continuation of the Royal New South Wales Institute for Deaf and Blind Children established under the 1905 Act as a body corporate with the name Royal Institute for Deaf and Blind Children on the repeal of the 1905 Act.

**Clause 5** provides that the Institute is not, and does not represent, the Crown.

**Clause 6** sets out the principal object of the Institute. This is the advancement in life to the greatest extent practicable of deaf and blind children. The Institute is not to carry out its activities for the purpose of private gain.

**Clause 7** provides that the members of the Institute are those persons who are admitted to membership in accordance with the by-laws. A register of members, containing details as prescribed by the by-laws, is to be kept by the Institute.

**Clause 8** provides that the Board is to call an annual general meeting of the Institute as soon as practicable after the completion of the financial year of the Institute. The financial year of the Institute is determined in accordance with clause 17. The Institute is to elect the Board at the annual general meeting. The quorum for the annual general meeting is 10 members.

**Clause 9** provides that either the Board or the members can call a special meeting subject to certain requirements.

### **Part 3 The Board**

**Clause 10** provides that the Board is to consist of no more than 15 directors who are members of the Institute. The Board is to have control of the Institute's affairs subject to any by-laws. Clause 10 also gives effect to Schedules 1 and 2 which contain provisions relating to the directors and procedure of the Board.

**Clause 11** provides that the Board can delegate any of its functions (other than the power of delegation) to an authorised person. A delegate may subdelegate to an authorised person if the Board has given its written consent. *Authorised person* is defined as a member of the staff of the Institute, or any other person or persons within a class of persons prescribed by the by-laws.

**Clause 12** describes the investment powers of the Board.

**Clause 13** provides that a person who, in good faith, exercises a duty of that person's office is to be indemnified against any expenses or liabilities incurred in relation to exercising that duty, including any legal costs and disbursements. The Board may take out insurance to cover such liabilities.

**Clause 14** provides for the establishment of committees and subcommittees by the Board for the purpose of assisting the Board in exercising its functions.

#### **Part 4 Property of Institute**

**Clause 15** provides that the Institute has the power to deal with property in accordance with its objects.

**Clause 16** enables the Institute to accept gifts for the purposes of the Act and to carry out any conditions attached to the gifts.

#### **Part 5 Miscellaneous**

**Clause 17** states that the financial year for the Institute is the year commencing 1 July, or as prescribed by the by-laws.

**Clause 18** provides that Part 5.7 of the *Corporations Law* applies to the winding up of the Institute, subject to certain adaptations.

**Clause 19** provides that the Board may make by-laws for the purposes of the proposed Act.

**Clause 20** empowers the making of regulations for the purposes of the proposed Act.

**Clause 21** repeals certain Acts.

**Clause 22** gives effect to Schedule 3 which contains savings and transitional provisions.

**Schedule 1 Provisions relating to directors**

**Schedule 1** contains provisions relating to the directors, including terms of office, vacation of office and retirement of directors.

**Schedule 2 Provisions relating to procedure of Board**

**Schedule 2** contains provisions relating to the procedure of the Board, including voting and quorum for meetings.

**Schedule 3 Savings and transitional provisions**

**Schedule 3** contains savings and transitional provisions providing for the following matters:

- the continuation of members, life members and life governors under the 1905 Act
- the continuation of the offices of President, Vice President, treasurer, secretary and director under the 1905 Act
- the continuation of staff appointed under the 1905 Act
- the continuation of by-laws



New South Wales

# Royal Institute for Deaf and Blind Children Bill 1998

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New South Wales

## Royal Institute for Deaf and Blind Children Bill 1998

No. , 1998

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### **A Bill for**

An Act to make further provision with respect to the Institute for Deaf and Blind Children; to repeal the *Royal New South Wales Institute for Deaf and Blind Children Act 1905* and certain other Acts; and for related purposes.

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Clause 1            Royal Institute for Deaf and Blind Children Bill 1998

Part 1             Preliminary

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**The Legislature of New South Wales enacts:**

## **Part 1      Preliminary**

### **1   Name of Act**

This Act is the *Royal Institute for Deaf and Blind Children Act 1998*.

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### **2   Commencement**

This Act commences on a day to be appointed by proclamation.

### **3   Definitions**

(1) In this Act:

*Board* means the board of the Institute.

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*director* means a director of the Board.

*exercise* a function includes perform a duty.

*function* includes a power, authority or duty.

*Institute* means the Royal Institute for Deaf and Blind Children.

*member* means a person admitted to membership of the Institute as referred to in section 7.

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*President* means the President of the Board.

*Vice President* means a Vice President of the Board.

(2) In this Act, a reference to deaf and blind children includes:

(a) a reference to children who are either deaf or blind, or both, or

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(b) a reference to children who, in the opinion of the Board, have a serious loss of hearing or a serious loss of vision, or both.



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## **Part 2      Royal Institute for Deaf and Blind Children**

### **4 Continuation of Institute under new name**

- (1) The Royal New South Wales Institute for Deaf and Blind Children constituted under the *Royal New South Wales Institute for Deaf and Blind Children Act 1905* is continued by this Act as a body corporate with the corporate name of the "Royal Institute for Deaf and Blind Children". 5
- (2) The Royal Institute for Deaf and Blind Children is the same legal entity as the legal entity continued by this Act. 10

### **5 Institute not agency of State**

- (1) The Institute is not, and does not represent, the Crown.
- (2) Without limiting the generality of subsection (1), the Institute:
- (a) is not an instrumentality or agency of the State, and
  - (b) is not entitled to any immunity or privilege of the State, 15 and
  - (c) is not a public authority for any purpose and is taken not to have been constituted or established for a public purpose or for a purpose of the State.

### **6 Object** 20

- (1) The principal object of the Institute is the advancement in life, to the greatest extent practicable, of deaf and blind children.
- (2) The Institute is not to carry out its activities for the purpose of private gain for particular persons.

### **7 Membership of Institute** 25

- (1) The members of the Institute are persons who have been admitted to membership of the Institute by the Board in accordance with the by-laws.

- (2) A register of members is to be kept by the Institute in such place and is to include such information as is prescribed by the by-laws.

### **8 Annual general meeting of Institute**

- (1) The Board is to call an annual general meeting of the Institute as soon as practicable after the completion of each financial year of the Institute. 5
- (2) A quorum for an annual general meeting is 10 members.
- (3) The Institute is to elect the directors of the Board at the annual general meeting in accordance with this Act and the by-laws. 10

### **9 Special meeting of Institute**

- (1) A special meeting of the Institute for the transaction of any particular business may be called at any time by the Board and must be held on written requisition of at least 20 members given to the President or, in the absence of the President, a Vice President. 15
- (2) The special meeting is to be held within 30 days after the receipt of the requisition by the President or, in the absence of the President, a Vice President.
- (3) At least 7 days' notice of the time and place of any special meeting as well as the business to be transacted is to be given in accordance with the by-laws. 20

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## Part 3 Board

### 10 Board of Institute

- (1) The Institute is to have a Board consisting of no more than 15 directors who are members of the Institute.
- (2) The Board has the control of the affairs of the Institute subject to any by-laws and has such other functions as may be conferred or imposed on the Board by or under this or any other Act. 5
- (3) Any act, matter or thing done in the name of, or on the behalf of, the Institute by the Board is taken to have been done by the Institute. 10
- (4) Schedule 1 has effect with respect to the directors.
- (5) Schedule 2 has effect with respect to the procedure of the Board.

### 11 Delegation of functions

- (1) The Board may delegate to an authorised person any of the functions of the Board, other than this power of delegation. 15
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Board if the delegate is authorised in writing to do so by the Board.
- (3) In this section, *authorised person* means a member of the staff of the Institute or any other person, or person within a class of persons, prescribed by the by-laws. 20

### 12 Powers to invest

The Board may invest funds of the Institute:

- (a) in accordance with, and subject to, the *Trustee Act 1925*, or
- (b) in any other manner authorised by the regulations. 25

### 13 Indemnity

- (1) A person is entitled to be indemnified out of the property of the Institute against all expenses and liabilities incurred by the person (whether as a director or in any other capacity) in connection with the exercise in good faith of the duties of office of the person, including any reasonable legal costs and disbursements. 30

Clause 13      Royal Institute for Deaf and Blind Children Bill 1998

Part 3          Board

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- (2) The Institute may insure any person against any liability to which subsection (1) applies.

**14 Committees and subcommittees**

The Board may establish such committees and subcommittees as the Board thinks fit for the purpose of assisting it to exercise its functions. 5

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## **Part 4 Property of Institute**

### **15 Power to hold and deal with property**

The Institute has power to acquire, purchase, hold, sell, mortgage and otherwise deal with property held by the Institute in accordance with its objects.

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### **16 Power to accept gifts**

- (1) The Institute has power to acquire by gift, bequest or devise any property for the purpose of carrying out or giving effect to all or any of its objects and to agree to and carry out the conditions of the gift, bequest or devise.
- (2) The rule of law against remoteness of vesting does not apply to or in respect of any condition of a gift, bequest or devise to which the Institute has agreed.
- (3) The *Stamp Duties Act 1920* does not apply to or in respect of any conveyance or gift to, activity or transaction of, or bequest or devise in favour of, the Institute and taking effect after the commencement of the *Royal New South Wales Institute for Deaf and Blind Children Act 1905*.

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## **Part 5      Miscellaneous**

### **17    Financial year**

The financial year of the Institute is the year commencing 1 July or such other day as may be prescribed by the by-laws.

### **18    Winding up**

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- (1) Without limiting any application Part 5.7 of the *Corporations Law* may have apart from this section, the provisions of Part 5.7 with respect to the winding up of a Part 5.7 body under that Law apply to the winding up of the Institute.
- (2) Despite section 586 of the *Corporations Law*, members of the Institute are not required to contribute to the payment of a debt or liability of the Institute on the winding up of the Institute. 10
- (3) Despite section 588 of the *Corporations Law*, where there is outstanding property of the Institute after the Institute is dissolved, the estate and interest in the property, together with any claims, rights and remedies in relation to that property is to vest in a body: 15
  - (a) that, in the opinion of the liquidator, has similar objects to the Institute, and
  - (b) that is a fund, authority or institution approved by the Commissioner of Taxation as a fund, authority or Institution mentioned in section 78 of the *Income Tax Assessment Act 1936* of the Commonwealth. 20

### **19    By-laws**

- (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 the following: 25
  - (a) the members, 30
  - (b) the directors,
  - (c) annual general and special meetings of the Institute,

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- (d) meetings of the Board,
  - (e) voting at meetings of the Institute and the Board,
  - (f) committees and subcommittees of the Board,
  - (g) meetings of committees and sub-committees,
  - (h) annual and other periodic reports, 5
  - (i) membership, including admission to and cessation of membership,
  - (j) classes of membership of the Institute.
- (2) A by-law:
- (a) may, from time to time, be amended or repealed by the Institute, and 10
  - (b) must indicate that it takes effect under this section.

## 20 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. 15

## 21 Repeal of certain Acts

The following Acts are repealed:

- (a) *Royal New South Wales Institute for Deaf and Blind Children Act 1905*, 20
- (b) *Royal New South Wales Institution for Deaf and Blind Children (Sale of Darlington Lands) Act 1961*,
- (c) *Royal New South Wales Institute for Deaf and Blind Children Act 1974*. 25

## 22 Savings and transitional provisions

Schedule 3 has effect.

## Schedule 1 Provisions relating to directors

(Section 10)

### 1 Board

- (1) The Board is to consist of no more than 15 directors who are members of the Institute. 5
- (2) At the first meeting of the Board after the annual general meeting, the Board:
- (a) is to elect one director to be President of the Board, and
  - (b) is to elect up to 4 directors to be Vice Presidents of the Board. 10

### 2 President and Vice Presidents

- (1) Candidates for the position of President and for the positions of Vice President must be properly nominated in accordance with the by-laws.
- (2) The Board may at any time remove a director from the office of President or Vice President. 15
- (3) A person who is appointed as President or Vice President vacates that office if the person:
- (a) is removed from that office by the Board, or
  - (b) resigns that office by notice in writing to the Board, or 20
  - (c) ceases to be a member, or
  - (d) ceases to be a director under clause 4.

### 3 Vacancy

- (1) If the office of any director becomes vacant, a member may be appointed, subject to this Act, by the Board to fill the vacancy. 25
- (2) If a person is appointed under subclause (1), that person:
- (a) is to retire immediately before the following annual general meeting, and
  - (b) is eligible (if otherwise qualified) for re-election.

### 4 Retirement of directors

- (1) At least one-third of the directors are to retire by rotation each year. 30



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- (2) In the event of a dispute under subclause (1), the Board is to determine by ballot which directors are to retire.
  - (3) Each director must retire no later than 3 years after being elected and may submit for re-election.
  - (4) Directors who retire are eligible (if otherwise qualified) for re-election. 5

## **Schedule 2 Provisions relating to procedure of Board**

(Section 10)

### **1 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 by-laws, to be determined by the Board. 5

### **2 Quorum**

The quorum for a meeting of the Board is 4 directors.

### **3 Chairperson**

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- (1) The President, or in the President's absence a Vice President, is to preside as chairperson.
- (2) If the President and all Vice Presidents are absent from any meeting of the Board, the directors present are to elect one of their number to preside at that meeting. 15
- (3) The person acting as chairperson at any meeting of the Board is to have a deliberative vote and, in the event of an equality of votes, is to have a second or casting vote.
- (4) However, the person acting as chairperson does not have a second or casting vote where the vote relates to the retirement of the chairperson in accordance with clause 4 of Schedule 1. 20

### **4 Informality of election of director not to invalidate acts**

Any act or decision of the Board is not to be called in to question merely because of any defects in the election or appointment of a director. 25

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## Schedule 3 Savings and transitional provisions

(Section 22)

### Part 1 Provisions consequent on enactment of this Act

#### 1 Definition

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In this Schedule:

*the 1905 Act* means the *Royal New South Wales Institute for Deaf and Blind Children Act 1905*.

#### 2 Members, life members and life governors

A person who was a member, life member or life governor of the Institute immediately before the repeal of the 1905 Act continues (subject to the by-laws) to be a member, life member or life governor under this Act as if the person was admitted as a member, life member or life governor under this Act.

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#### 3 Board

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(1) A person holding office as President or Vice President of the Institute immediately before the repeal of the 1905 Act continues to hold office under this Act as if appointed under this Act.

(2) A person holding office as treasurer, secretary or director of the Institute immediately before the repeal of the 1905 Act continues to hold office under this Act as if elected or appointed under this Act.

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#### 4 Members of staff

A person who, immediately before the repeal of the 1905 Act, was a member of staff of the Institute continues to be a member of staff of the Institute and retains any accrued entitlements.

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Royal Institute for Deaf and Blind Children Bill 1998

Schedule 3 Savings and transitional provisions

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**5 By-laws**

By-laws made under the 1905 Act and in force immediately before the commencement of this Act are, to the extent that they are not inconsistent with this Act, taken to be by-laws made under this Act.

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