

FIRST PRINT

EDUCATION AND PUBLIC INSTRUCTION BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Miscellaneous Acts (Education and Public Instruction) Repeal and Amendment Bill 1987 is cognate with this Bill.

The objects of this Bill are—

- (a) to continue the system of public school education established by the Public Instruction Act 1880 and to provide for a system of registration of non-government schools similar to the system of registration and certification in force under the Public Instruction (Amendment) Act 1916 and the Education Act 1961;
- (b) to abolish the school certificate and to provide instead for the grant of a certificate of secondary education; and
- (c) to constitute a Board of Secondary Education (in place of the Secondary Schools Board and the Board of Senior School Studies).

The proposed Act will replace the Public Instruction Act 1880, the Public Instruction (Amendment) Act 1916, the Free Education Act 1906 and the Education Act 1961, each of which will be repealed by the proposed Miscellaneous Acts (Education and Public Instruction) Repeal and Amendment Act 1987.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 contains definitions for the purposes of the proposed Act. In particular, the term "registered school" is defined to mean a non-government school that has been registered under Part 4 of the proposed Act.

PART 2—ATTENDANCE OF CHILDREN AT SCHOOL

Clause 4 provides for compulsory attendance at school by a child of or above the age of 6 and below the age of 15. The duty lies on the parent, guardian or other person having the custody or care of the child to send the child to school. A penalty of \$1,000 is provided for a failure to observe this duty.

Clause 5 makes it compulsory for registered schools to keep a register of enrolments and attendances, from which returns are to be forwarded periodically to the Minister.

Clause 6 allows the Minister to exempt children from attendance at school in appropriate cases.

PART 3—STATE SCHOOLS

Clause 7 sets out the main kinds of State schools, namely primary, secondary and composite.

Clause 8 empowers the Minister to establish, name and close schools.

Clause 9 provides that instruction in State schools shall be free of charge.

Clause 10 provides that education in State schools shall be non-sectarian.

Clause 11 regulates religious instruction in State schools.

Clause 12 provides for exemption of children from religious instruction.

Clause 13 allows the Minister to refuse a child admission to a particular State school if more convenient or appropriate accommodation is available at another State school.

Clause 14 gives the Minister power to control and regulate student discipline in State schools.

PART 4—REGISTRATION OF SCHOOLS

Clause 15 divides the responsibility for the registration of non-government schools between the Minister and the Board of Secondary Education. The Board is responsible for registration of schools in so far as they provide education to candidates for either or both of the secondary certificates (that is, the certificate of secondary education and the higher school certificate). The Minister is responsible for the registration of schools in so far as they provide other education.

Clause 16 provides for the initial registration of non-government schools.

Clause 17 provides for periodical inspection of schools to monitor their efficiency and to ascertain the condition of their buildings and premises.

Clause 18 provides for renewal of a school's registration. The registration authority may require changes to be made at a school to bring it to a standard appropriate to enable the continuation of its registration.

Clause 19 describes the circumstances in which a school or part of a school becomes unregistered and provides for parents of children at the school to be notified if this should happen.

Clause 20 provides for cancellation of the registration of a school or part of a school on the ground that the school no longer provides efficient instruction for its students, that the educational facilities at the school have deteriorated to an unacceptable level or that its buildings and premises are unsatisfactory.

Clause 21 prohibits the conducting of an unregistered school and empowers the registration authority to obtain an injunction to close such a school.

Clause 22 requires a registered school's certificate of registration to be displayed in a conspicuous place.

Clause 23 requires notice to be given to the registration authority in the event that a registered school moves to new premises.

Clause 24 requires notice to be given to the registration authority in the event that the ownership of a registered school is transferred.

Clause 25 requires notice to be given to the registration authority in prescribed circumstances.

Clause 26 makes provision for an appellate tribunal before which appeals may be brought under proposed section 27.

Clause 27 provides for the making and hearing of appeals against decisions not to register a school or to cancel or refuse registration of a school.

Clause 28 requires the furnishing of periodic returns by registered schools.

PART 5—THE BOARD OF SECONDARY EDUCATION

Clause 29 constitutes the Board of Secondary Education.

Clause 30 specifies the Board's main functions. These include the determination or approval of school curricula, the granting of the secondary certificates and the provision of advice and guidance to schools, employers and the public.

Clause 31 enables the Board to employ casual staff for certain purposes.

PART 6—CERTIFICATES OF EDUCATION

Clause 32 provides for the grant of certificates of secondary education.

Clause 33 provides for the grant of higher school certificates.

Clause 34 makes provision with respect to candidates whose attendance or endeavours at examinations or other forms of assessment for one of the secondary certificates are prejudiced by illness or misadventure.

Clause 35 requires the Board to reconsider certain of its decisions on the request of persons affected by them.

PART 7—PARENTS AND CITIZENS AND KINDRED ASSOCIATIONS

Clause 36 provides for the constitution of parents and citizens and kindred associations and district councils.

Clause 37 specifies the objects and functions of the associations and councils.

Clause 38 enables the associations and councils to make rules for their government.

PART 8—GENERAL

Clause 39 allows the Minister and the Board to delegate functions.

Clause 40 empowers inspectors of schools to enter premises to ascertain whether section 21 of the proposed Act (conducting of unregistered schools) is being contravened.

Clause 41 enables the granting of a search warrant for the purposes of proposed section 40 if the premises concerned are a dwelling.

Clause 42 permits attendance officers to investigate the case of any child apparently of school age who is not at school.

Clause 43 provides for the admissibility, as evidence in proceedings, of certain certificates by school principals as to the enrolment and attendance of children at school and for other evidentiary matters.

Clause 44 provides for proceedings for an offence under the proposed Act to be dealt with summarily in a Local Court.

Clause 45 provides for the acquisition of land by the Minister for educational and certain other purposes and enables the disposal of land.

Clause 46 enables the rescission of certain notices of resumption of land.

Clause 47 provides for the establishment of scholarships attached to State schools.

Clause 48 provides for the operation of the Act in certain respects in so far as it affects schools at which there is no principal teacher.

Clause 49 provides for the making of regulations in aid of the proposed Act.

Clause 50 enables the Board to make rules in connection with the carrying out of its functions.

Schedule 1 makes provision with respect to the constitution and procedure of the tribunal to be established by proposed section 26.

Schedule 2 makes provision with respect to the members of the Board.

Schedule 3 regulates the Board's procedure.

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EDUCATION AND PUBLIC INSTRUCTION BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to provide for education in State schools; to provide for the registration of other schools; to provide for the granting of certificates of secondary education and higher school certificates; to constitute a Board of Secondary Education and to define its functions; and for other purposes.

See also Miscellaneous Acts (Education and Public Instruction) Repeal and Amendment Bill 1987.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the "Education and Public Instruction Act 1987".

10 Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation
15 published in the Gazette.

Interpretation

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Board of Secondary Education constituted by this Act;

20 "Director-General" means the person for the time being holding office or acting as the Director-General of Education;

25 "inspector of schools" means an officer of the Department of Education appointed as an inspector of schools or a person authorised in writing by the Minister or the Board to exercise the functions of an inspector of schools for the purposes of the provision in which the expression occurs;

30 "parents and citizens association" means an association constituted under this Act and consisting of parents and guardians of children attending any State school together with other residents of the district served by the school who are interested in the welfare of the school;

"principal teacher", in relation to a school, includes an acting principal teacher of the school;

“proprietor”, in relation to a registered school, means the person designated, in the school’s certificate of registration, as the proprietor of the school;

5 “registered school” means a school for the time being registered under Part 4;

“regulations” means regulations under this Act;

“secondary certificate” means a certificate of secondary education, or a higher school certificate, granted under Part 6;

“State school” means a school established under this Act by the Minister.

10 (2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

15

PART 2

ATTENDANCE OF CHILDREN AT SCHOOL

Compulsory attendance

4. (1) It is the duty of the parent, guardian or other person having the custody or care of a child of or above the age of 6 and below the age of 15
20 to cause the child—

(a) to be enrolled at a State school or registered school; and

(b) to attend the school on each day on which instruction for the child is provided by the school.

25 (2) A person who, being the parent or guardian of a child of or above the age of 6 and below the age of 15, or having the custody or care of such a child—

(a) neglects or fails to cause the child to be enrolled at a State school or registered school; or

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- (b) neglects or fails to cause the child to attend, at all times when the school is open for the child's instruction or participation in school activities, the State school or registered school at which the child is enrolled,

5 is guilty of an offence and liable to a penalty not exceeding \$1,000.

(3) It is a defence to a prosecution under this section if—

- (a) the child is enrolled at, and regularly attends, in accordance with the law of another State or a Territory of the Commonwealth, a school in the other State or Territory;
- 10 (b) the child has been expelled from a State school or cannot gain admission to any State school within the State; or
- (c) a certificate under section 6 has been granted in respect of the child and any conditions for the time being attached to the certificate are complied with.

15 (4) It is also a defence to a prosecution under this section for a neglect or failure to cause a child to attend a State school or registered school if—

- (a) the child is enrolled at a State school that is a correspondence school and satisfies the requirements (if any) prescribed with respect to performance of school work;
- 20 (b) the child was prevented from attending school by—
 - (i) sickness, danger of infection or temporary or permanent infirmity; or
 - (ii) some misadventure or unforeseen event,and within 7 days of the occurrence of that sickness, danger or infirmity, or of that misadventure or unforeseen event, the defendant
- 25 gave notice of it to the child's teacher;
- (c) at all material times the child attended a school which the defendant reasonably believed to be a State school or a registered school whose registration was appropriate for the education of the child;
- 30 (d) the child has not been absent—
 - (i) on more than 6 occasions; or
 - (ii) for more than 3 days,during the 3 months during which the school had been open immediately preceding the absence complained of; or

- (e) the absence from school was by reason of the child's disobedience, and was not due to any neglect or default of the defendant.

(5) A notice of the kind referred to in subsection (4) (b), or a record of its particulars, shall be kept by the principal teacher of the school and shall, in the case of a registered school, form part of the register referred to in section 5.

Register of enrolments and attendances

5. (1) The principal teacher of a registered school shall keep a register, in a form approved by the Minister, of the enrolments and daily attendances of all children at the school.

(2) The register shall be available for inspection during school hours by an inspector of schools, who may require the principal teacher of the school to furnish to the inspector a copy of the register or any part of it.

(3) When required to do so by the Minister, the principal teacher of a registered school shall furnish to the Minister information, within a time and in a form approved by the Minister, concerning the enrolment and attendance of children at the school during a specified period.

(4) The particulars of enrolments and daily attendances recorded in a register under this section shall be retained for such period as the Minister may determine.

(5) A principal teacher of a school who, without reasonable excuse, neglects or fails to comply with a requirement imposed by or under this section is guilty of an offence and liable to a penalty not exceeding \$500.

Certificate of exemption

6. (1) The Minister may grant a certificate exempting a child from attendance at a school as required by this Part, if the Minister is satisfied—

(a) that the child receives appropriate regular and efficient instruction at home; or

(b) that conditions exist which make it necessary or desirable that such a certificate should be granted.

(2) A certificate under this section may be given subject to conditions and may be limited in its operation to a period specified in the certificate.

PART 3**STATE SCHOOLS****Kinds of State schools**

7. State schools shall be of 3 main kinds, namely:
- 5 (a) primary schools, in which the main object shall be to afford the best primary education to all children without sectarian or class distinction;
- (b) secondary schools, in which courses of study beyond the primary level, without sectarian or class distinction, shall be given;
- 10 (c) composite schools, in which both such primary education and courses of study beyond the primary level may be given.

Establishment, etc., of State schools

8. (1) The Minister may establish a school in any locality in which the Minister is satisfied there are sufficient children who will regularly attend
15 the school.
- (2) The Minister may name a State school or change the name of a State school.
- (3) The Minister may close a State school.
- (4) Notice of the Minister's decision to establish a school, to name or to
20 change the name of a school or to close a school shall be published in the Gazette.

Instruction to be free

9. The instruction provided in State schools shall be free of charge.

Secular instruction

- 25 10. In State schools, the teaching shall consist of strictly non-sectarian and secular instruction, but the words "secular instruction" shall be taken to include general religious teaching, as distinct from dogmatic or polemical theology, and secular instruction shall include lessons in the history of Australia.

Special religious instruction

11. (1) In every State school, a period (not being more than one hour) each week shall be set aside for the religious instruction of children of any religious persuasion.
- 5 (2) The religious instruction to be given to children of any religious persuasion shall be given by a member of the clergy or other religious teacher of that persuasion authorised by the religious body to which the member of the clergy or other religious teacher belongs.
- 10 (3) The religious instruction to be given shall in every case be the religious instruction authorised by the religious body to which the member of the clergy or other religious teacher belongs.
- 15 (4) The times at which religious instruction is to be given to children of a particular religious persuasion shall be fixed by agreement between the principal teacher of the school and the local member of the clergy or other religious teacher of that persuasion.
- (5) Children attending a religious instruction class shall be separated from other children at the school while the class is held.
- 20 (6) In any case where the religious instructor fails to attend the school at the appointed time, the children shall be given ordinary lessons during the period set aside for religious instruction.

Objection to religious instruction

12. No child at a State school shall be required to receive any general religious teaching or special religious instruction if the parent, guardian or other person having the custody or care of the child objects to the child's receiving that teaching or instruction.
- 25

Admission to State schools

13. (1) The Minister may refuse the admission of a child to a State school if—
- 30 (a) the child's home is within the prescribed distance of another State school at which there is accommodation for the child;
- (b) the child's home is within the intake area, designated by the Minister, of another State school;
- (c) the child has been expelled from any State school; or
- 35 (d) the Minister is of the opinion that there is other sufficient reason to refuse the admission of the child to a State school.

(2) The Minister may designate intake areas for State schools, with boundaries shown on a map which shall be made available for public inspection.

Discipline in State schools

5 **14. (1)** The Minister may control and regulate student discipline at State schools.

(2) Without limiting the generality of subsection (1), the Minister may suspend or expel from a State school a child of any age.

PART 4

10

REGISTRATION OF SCHOOLS

Registration authority

15. For the purposes of this Part—

- 15 (a) the Board shall be the registration authority for schools in so far as they provide or propose to provide education to candidates for either or both of the secondary certificates; and
- (b) the Minister shall be the registration authority for schools in so far as they provide primary education or education for children of a kind prescribed for the purposes of section 16 (5),

20 and, in relation to any particular school, a reference in this Part to the registration authority shall be read as a reference to the Board, the Minister, or both, depending on the education provided or to be provided at the school.

Establishment of registered schools

25 **16. (1)** A person who proposes to establish a school (other than a State school) to be attended by children of or above the age of 6 and below the age of 15 (whether or not the school is to be attended also by children of other ages) may apply to the registration authority for registration of the school.

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(2) At any time later than 12 months after receipt of the application for registration, the registration authority—

(a) if satisfied that—

(i) the school will provide regular and efficient instruction;

5 (ii) the educational facilities at the school will be adequate for the courses of instruction intended to be provided at the school; and

10 (iii) any requirements of the regulations in relation to courses of instruction, patterns of study, educational facilities and other prescribed matters will be complied with; and

15 (b) if satisfied that the premises and buildings in which it is proposed to conduct the school are generally satisfactory and accord with any standards prescribed by the regulations in respect of access, drainage, light, ventilation, sanitary conveniences and other prescribed matters,

shall register the school on a list kept for that purpose.

20 (3) Nothing in subsection (2) or the regulations shall be taken to require a school to comply, in respect of any amenities or other matters referred to in that subsection, with standards higher than the standards to which State schools, similarly situated and circumstanced, generally conform.

(4) On initial registration by a registration authority, a certificate of registration shall be issued in respect of the school, which shall have effect for a period of 6 months commencing on a date specified in the certificate.

25 (5) The certificate may certify the school as efficient for the education of candidates for the higher school certificate, for secondary education for any specified Years, for primary education for any specified Years or for the education of prescribed kinds of children.

30 (6) A proposal by the proprietor of a registered school to provide at the school education for a Year, or to any kind of children, different from the Years or the kind of children in respect of which the school is certified, by its current certificate of registration, as efficient, shall be dealt with under this section as if the proposal were a proposal to establish a new school.

Inspection of schools

17. The registration authority shall cause each registered school to be inspected by an inspector of schools—

- 5 (a) before the end of the period of 6 months of initial registration of the school;
 - (b) before the end of each period for which the school's registration is renewed; and
 - (c) at such other times as the registration authority may determine, to monitor the school's efficiency and ascertain the condition of its buildings and premises.
- 10

Registration of schools

18. (1) The registration authority, if satisfied upon inspection and report by an inspector of schools—

- 15 (a) that the instruction provided at a registered school is regular and efficient and in accordance with the terms of its current certificate of registration, that the educational facilities at the school are adequate for the courses of instruction provided and that any other requirements referred to in section 16 (2) (a) are being complied with; and
- 20 (b) that the buildings and premises in which the school is conducted remain satisfactory and in accordance with the standards referred to in section 16 (2) (b),

shall issue a further certificate of registration for the school, which, subject to section 19 (1), shall have effect for a period (not exceeding 6 years) specified in the certificate commencing on a date so specified.

25

(2) The registration authority, if not satisfied as to the matters referred to in subsection (1), may send a notice to the proprietor or principal teacher of the school.

(3) The notice—

- 30 (a) shall state that a further certificate of registration will not be issued until the necessary improvements specified in the notice have been made for the improvement of the school or its buildings and premises; and
- 35 (b) may specify the time within which any such improvements should be made.

(4) The registration authority may, by a notice under subsection (2) or by a subsequent notice, extend the period for which the school's registration was granted or last renewed, in order to enable improvements to be made.

(5) More than one such extension may be granted.

- 5 (6) The registration authority shall keep a list of registered schools and shall from time to time publish the list in the Gazette.

Unregistered schools

19. (1) A registered school or part of a registered school becomes unregistered if—

- 10 (a) notice of a decision of the registration authority not to renew the registration of the school or part of the school has been given and—
- (i) 30 days have elapsed since the giving of that notice, during which time no appeal under section 27 has been lodged against the decision; or
- 15 (ii) the decision has been upheld on an appeal under section 27 or the appeal has been withdrawn;
- (b) its registration has been effectively cancelled under section 20; or
- (c) its registration has ceased by the operation of section 23 (3) or of regulations made for the purposes of section 25 (3).
- 20 (2) If a school or part of a school becomes unregistered, the parents of children enrolled at the school shall forthwith be given notice of that fact in writing by the proprietor or principal teacher of the school.

(3) The notice may be given to a child at the school with instructions to deliver it to the child's parents or may be sent by post or otherwise delivered
25 to the parents.

(4) If notice is not given to a parent as required by this section, the proprietor and principal teacher of the school, unless it is shown that reasonable measures were taken to give the notice, are each guilty of an offence and liable to a penalty not exceeding \$500.

- 30 (5) A reference in this section to the parent of a child includes a reference to a guardian or other person having the custody or care of the child.

Cancellation of registration

20. (1) The registration authority may, by notice to the proprietor or principal teacher of the school, cancel the registration of the school or part of the school if—

- 5 (a) a notice under section 18 has not been complied with;
- (b) the registration authority is satisfied that—
 - (i) the instruction provided at the school has deteriorated to such an extent;
 - 10 (ii) the educational facilities at the school have deteriorated to such an extent; or
 - (iii) the buildings and premises of the school are in such an unsatisfactory condition,
 that the registration of the school or of a part of the school should be cancelled; or
- 15 (c) courses of instruction are being provided in contravention of section 21 (2).

(2) Cancellation of the registration of a school or part of a school takes effect if notice of the cancellation has been given and—

- 20 (a) 30 days have elapsed since the giving of that notice, during which time no appeal under section 27 has been lodged against the cancellation; or
- (b) the cancellation has been upheld on an appeal under section 27 or the appeal has been withdrawn.

Conducting of unregistered schools

- 25 21. (1) A person shall not conduct or knowingly permit or assist in the conducting of a school at which children of or above the age of 6 and below the age of 15 are instructed and which is not registered under this Part.

- (2) A person, being the proprietor or principal teacher of a registered school or another teacher at the school, shall not provide or offer to provide 30 a course of instruction represented by any such person to be a course appropriate for—

- (a) candidates for one or other of the secondary certificates;
- (b) primary school children of any Year; or

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- (c) the education of children of a kind prescribed for the purposes of section 16 (5),

unless the school is registered as efficient for the education of those candidates or other children.

- 5 (3) The registration authority shall have standing before the Supreme Court to obtain an injunction requiring any person to refrain or desist from contravening this section.

Certificate to be displayed

- 10 22. (1) The current certificate of registration of a registered school shall be displayed in the entrance to the main school building or in some other conspicuous place at the school.

(2) If the certificate is not so displayed, the principal teacher of the school is guilty of an offence and liable to a penalty not exceeding \$500.

Relocation of schools

- 15 23. (1) If a registered school or part of a registered school is proposed to be moved to new premises, notice shall be given to the registration authority at least 3 months before the relocation.

20 (2) If notice of the relocation is not duly given, the proprietor and principal teacher of the school are each guilty of an offence and liable to a penalty not exceeding \$500.

(3) If a school or part of a school is relocated, the school's registration ceases upon the relocation.

(4) Subsection (3) does not operate so as to affect the registration of a school the whole or part of which has been relocated because—

- 25 (a) the school or part of the school has been damaged; or

(b) access to the school or part of the school has been cut off,

by any event in the nature of an act of God or other cause neither contemplated nor reasonably foreseeable by the proprietor or principal teacher of the school.

- 30 (5) Nothing in subsection (4) affects any of the powers of the registration authority.

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(6) A reference in this section to the relocation of a registered school or part of such a school does not include a reference to the relocation of any playing field, sporting facility or other premises or building unconnected with—

- 5 (a) the giving of courses of instruction; or
- (b) the amenity of teachers and students participating in those courses.

Sale of schools

24. (1) If a registered school is sold, notice of the sale shall be given to the registration authority within 7 days after completion of the sale.

- 10 (2) If notice of the sale is not duly given, the purchaser of the school is guilty of an offence and liable to a penalty not exceeding \$500.

(3) Upon completion of the sale of a school, the unexpired portion of its current period of registration, if greater than 6 months, shall be deemed for the purposes of this Act to be 6 months only.

15 Changes in circumstances of operation of schools

25. (1) If a registered school undergoes, or is proposed to undergo, any change of a prescribed kind in the circumstances of its operation, notice of that change shall be given in accordance with the regulations.

- 20 (2) If notice of the change is not duly given, the proprietor and principal teacher of the school are each guilty of an offence and liable to a penalty not exceeding \$500.

(3) The regulations may provide that, in the event of any specified change (of a prescribed kind) in the circumstances of the operation of a school, the registration of the school or a part of the school—

- 25 (a) shall cease; or
- (b) shall be limited to a period specified in the regulations.

Schools Accreditation Appeals Tribunal

26. (1) There shall be a Schools Accreditation Appeals Tribunal consisting of 3 members appointed by the Minister.

- 30 (2) Schedule 1 has effect with respect to the constitution and procedure of the Tribunal.

(3) The Tribunal shall have and may exercise the functions of the registration authority in relation to the matter the subject of the appeal.

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(4) The Tribunal shall not renew the registration of a school for a period longer than 12 months.

(5) The Tribunal's determination of an appeal is final.

(6) If an appeal is brought against a decision of the registration authority—

(a) not to renew the registration of a school or part of a school; or

(b) to cancel or vary the terms of a school's registration,

that decision has no force or effect unless (nor until such time as) the Tribunal decides to uphold it.

10 Appeals

27. (1) The proprietor or principal teacher of a school may appeal to the Tribunal established by section 26 against a decision of the registration authority—

(a) not to register the school or a part of the school;

15 (b) not to renew the registration of the school or a part of the school; or

(c) to cancel or vary the terms of the school's registration.

(2) Any such appeal shall be lodged within 30 days of the giving of notice of the decision against which the appeal is brought, and shall be heard and
20 dealt with as prescribed.

Returns by schools

28. (1) The proprietor or principal teacher of a registered school shall furnish returns to the registration authority in forms approved by the registration authority for the purpose.

25 (2) If a return is not duly furnished, the proprietor and principal teacher of the school are each guilty of an offence and liable to a penalty not exceeding \$500.

PART 5**THE BOARD OF SECONDARY EDUCATION****Constitution of the Board**

29. (1) There is constituted by this Act a corporation under the
5 corporate name of the "Board of Secondary Education".

(2) The Board—

(a) shall have and may exercise the functions conferred or imposed on
it by or under this Act or any other law; and

10 (b) shall, for the purposes of any Act, be deemed to be a statutory body
representing the Crown.

(3) The Board shall consist of not less than 20 and not more than 21
members, of whom—

15 (a) the Director-General (who shall be a member of the Board by virtue
of holding or acting in that office) shall, subject to Schedule 3, be
the presiding member;

(b) one shall be the person for the time being holding office or acting as
the Director-General of Technical and Further Education or a
nominee of that Director-General; and

20 (c) the remainder shall be appointed by the Minister as part-time
members in accordance with the provisions of clause 1 of Schedule
2.

(4) Schedule 2 has effect with respect to the members of the Board.

(5) Schedule 3 has effect with respect to the procedure of the Board.

Functions of the Board

25 30. (1) The Board has the following functions:

(a) to determine or approve courses of studies to be undertaken by
candidates for certificates of secondary education, and to grant
certificates of secondary education;

30 (b) to determine or approve courses of studies to be undertaken by
candidates for higher school certificates, and to grant higher school
certificates;

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-
- 5 (c) to make such arrangements as may be necessary for the conduct of examinations or other forms of assessment of candidates for the secondary certificates, and to regulate the conduct of those examinations or other forms of assessment and the recording of candidates' achievements in them;
- (d) to exercise, in accordance with section 15, the functions of a registration authority under Part 4;
- 10 (e) to recognise, for any of the purposes of this Act and the regulations, educational attainments obtained at educational institutions outside New South Wales;
- (f) to provide advice and guidance to schools concerning the policies and practices of the Board;
- 15 (g) to provide advice and assistance to students, employers and the public concerning the nature and content of secondary education courses and the assessment and reporting of students' achievements in them;
- (h) to advise and make recommendations to the Minister in relation to—
- 20 (i) matters connected with, or concerning the conduct of, examinations and other forms of assessment of candidates for the secondary certificates;
- (ii) patterns of study, including the balance between any compulsory and optional courses of study or experiences required of candidates for either of the secondary certificates;
- 25 (iii) the nature and purpose of any rules and regulations under Part 8 governing the registration of schools offering secondary education; and
- (iv) any matter in relation to which the Minister requests the Board's advice; and
- 30 (i) to monitor, by inspection of schools and otherwise, the application of its policies in schools.
- (2) The Board may appoint, as may be necessary and for such period as may appear to the Board to be desirable—
- 35 (a) committees to make recommendations to the Board concerning the content of courses of study in any area or subject pertaining to secondary education; and

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- (b) such other committees as the Board considers appropriate to assist it in the exercise of its functions.

(3) It does not matter if any or all of the members of a committee are not members of the Board.

- 5 (4) The procedure of a committee, and the quorum for a meeting of the committee, shall be as determined by the Board or (subject to any determination of the Board) by the committee.

(5) The Board shall not exercise any of its functions so as—

(a) to introduce or seek the introduction of any new policy; or

- 10 (b) to change or seek to change any policy,

relating to the overall planning, allocation or use of educational resources unless it has first consulted with the Education Commission of New South Wales concerning the proposed introduction or change of policy.

- 15 (6) The Board shall, at least once every 4 years, present the Minister with a review of current policies and future directions for secondary education.

Casual staff

31. The presiding member of the Board may—

- 20 (a) in connection with the exercise of its functions in respect of examinations or other forms of assessment or for any purpose approved by the Minister; and
- (b) on terms and conditions determined by the Director-General in consultation with the Education Commission of New South Wales or the Public Service Board, as the nature of the duties warrants,

employ casual staff.

PART 6

CERTIFICATES OF EDUCATION

Certificates of secondary education

5 **32. (1)** Certificates of secondary education shall be granted by the Board to students—

- (a) who have attended a State secondary or composite school, a school registered by the Board or a school outside New South Wales recognised by the Board;
- 10 (b) who have participated, to the Board's satisfaction, in courses of studies which the Board has determined or approved under section 30 (1) (a) as appropriate to be undertaken by candidates for the certificate of secondary education;
- 15 (c) who have been accepted by the Board as having satisfactorily completed those courses of studies or an approved stage of those courses;
- (d) who have, to the satisfaction of the Board, undertaken any requisite examinations or other forms of assessment; and
- (e) who have complied with any prescribed requirements or any requirements imposed by the Minister or the Board.

20 **(2)** The Board may refuse to grant a certificate of secondary education to a student whose attendance or application at school has been of such an unsatisfactory character that the grant of the certificate would not, in the opinion of the Board, be justified.

Higher school certificates

25 **33. (1)** Higher school certificates shall be granted by the Board to students—

- (a) who are qualified for the grant of a certificate of secondary education or who have attained such qualifications as the Board considers satisfactory;
- 30 (b) who—
 - (i) have attended, for a prescribed period, a State secondary or composite school, a school registered by the Board, a school outside New South Wales recognised by the Board or a college within the meaning of the Technical and Further Education Act
 - 35 1974; and

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- (ii) have there participated, to the Board's satisfaction, in courses of studies which the Board has determined or approved under section 30 (1) (b) as appropriate to be undertaken by candidates for the higher school certificate;
- 5 (c) who have been accepted by the Board as having satisfactorily completed those courses of studies;
- (d) who have, to the satisfaction of the Board, undertaken any requisite examinations or other forms of assessment; and
- 10 (e) who have complied with any prescribed requirements or any requirements imposed by the Minister or the Board.

(2) The Board may refuse to grant a higher school certificate to a student whose attendance or application at school has been of such an unsatisfactory character that the grant of the certificate would not, in the opinion of the Board, be justified.

15 **Certificate candidates affected by illness, etc.**

34. (1) If the Board is satisfied that a candidate for one of the secondary certificates was unable, by reason of illness or misadventure, to undertake an examination or other form of assessment for that certificate, the Board may determine that the candidate shall be treated, for the purposes of this

20 Act, as—

- (a) having undertaken that examination or other form of assessment; and
- (b) having attained in that examination or other form of assessment a standard determined by the Board.

25 (2) The Board may—

- (a) on evidence put before it, conclude that a candidate for one of the secondary certificates at an examination or other form of assessment for that certificate was seriously affected by illness or misadventure; and
- 30 (b) determine that the candidate shall be treated, for the purposes of this Act, as having attained in that examination or other form of assessment a standard determined by the Board.

(3) In determining a standard for the purposes of this section, the Board shall have regard to such evidence as is available to the Board relating to

35 the candidate's participation in the course of study to which the examination or other form of assessment related.

(4) The Board is not obliged to make a determination under this section except on application—

- (a) made to it within the prescribed period; and
- (b) supported by evidence acceptable to the Board.

5 Reconsideration of decisions

35. (1) If a person who considers himself or herself to be adversely affected by a decision of the Board in relation to the award of a certificate of secondary education or a higher school certificate requests the Board to reconsider the decision, the Board shall, subject to the rules made under
10 section 50—

- (a) reconsider; and
- (b) confirm, reverse or vary,
the decision.

(2) The Board's decision in relation to the request is final.

15 (3) Rules made under section 50 may make provision for or with respect to—

- (a) the manner in which, and the time within which, a request under this section must be made;
- (b) the procedures to be adopted in dealing with any such request; and
- 20 (c) any other matter relevant to the disposal of any such request.

PART 7

PARENTS AND CITIZENS AND KINDRED ASSOCIATIONS

Constitution of associations and councils

36. (1) A parents and citizens association or a kindred association may
25 be constituted in connection with any State school in accordance with the regulations.

(2) The Minister may establish a district council, constituted in accordance with the regulations, for any prescribed area.

Objects and functions

37. (1) The objects of an association are—

(a) to promote the interests of the school by bringing parents, citizens, students and teaching staff into close co-operation; and

5 (b) to assist in providing facilities and equipment for the school and in promoting the recreation and welfare of the students at the school.

(2) The functions of an association shall be—

10 (a) to report, when requested by the Minister, upon the material requirements of the school and to advise on the subject of minor repairs, alterations and additions to the school buildings and the selection of new sites;

(b) to assist and co-operate with the teaching staff in public functions associated with the school;

15 (c) to assist in arranging for the accommodation of teachers, in the conveyance of children attending the school, and in any other matters in which the Minister may seek the co-operation of the association; and

(d) to exercise such other functions as may be prescribed.

20 (3) The object of a district council shall be to advance the common interests of State schools within the area for which it is constituted, and for that purpose a district council may—

(a) advise the Minister upon all matters (other than staff matters) relating to State schools within the area;

25 (b) assist in raising funds for establishing and maintaining scholarships for pupils attending State schools within the area;

(c) assist, when required, in the arrangement and supervision of contracts for the conveyance of children to State schools;

(d) assist in the establishment and maintenance of libraries in connection with State schools within the area; and

30 (e) exercise such other functions as may be prescribed.

Rules of associations and councils

38. (1) Each association and district council shall, subject to this Act and the regulations, make rules for the conduct of its business and affairs, but those rules shall not be operative unless (nor until such time as) they are approved by the Minister.

(2) Any of a set of standard or model rules published by the Minister as prescribed and adopted by an association or district council shall be deemed, for the purposes of subsection (1), to be approved by the Minister and shall take effect upon their adoption.

10

PART 8
GENERAL

Delegation by the Minister and the Board

39. (1) The Minister or the Board may delegate to any person or body (including, in the case of a delegation by the Board, any committee of the Board) the exercise of any of their respective functions under this Act (other than the power of delegation conferred by this section).

(2) A delegation—

(a) may specify the delegate by name or may designate a particular officer, or the holder of a particular office, as the delegate by reference to the title of the office concerned;

(b) may be general or limited;

(c) shall be in, or be evidenced by, writing signed by the delegator or, if the delegator is the Board, by a person authorised by the Board for that purpose; and

(d) may be revoked, wholly or partly, by the delegator.

(3) A delegated function may be exercised only in accordance with any conditions to which the delegation is subject.

(4) A delegate may, in the exercise of a delegated function, exercise any other function that is incidental to the delegated function.

(5) A delegated function that purports to have been exercised by a delegate shall, until the contrary is proved, be taken to have been duly exercised by the delegate.

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(6) A delegated function that is duly exercised by a delegate shall be taken to have been exercised by the delegator.

(7) If—

5 (a) the exercise of a function by the Minister or the Board is dependent on the opinion, belief or state of mind of the Minister or the Board in relation to any matter; and

(b) the Minister or the Board has delegated the function,

the function may be exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to any such matter.

10 (8) If a function is delegated to a particular officer or the holder of a particular office—

(a) the delegation does not cease to have effect merely because the person who was the particular officer or the holder of the particular office when the function was delegated ceases to be that officer or
15 the holder of that office; and

(b) the function may be exercised (or, in the case of a duty, shall be performed) by the person for the time being occupying or acting in the office concerned.

(9) A function that has been delegated may, notwithstanding the
20 delegation, be exercised by the delegator.

Entry to premises

40. (1) For the purposes of an inspection under this Act, an inspector of schools shall at all reasonable times have full and free access to the premises and buildings and enrolment and attendance records of any school.

25 (2) An inspector of schools who believes on reasonable grounds that instruction is being given at any premises in contravention of section 21 may at any reasonable time enter any part of those premises and may—

(a) take possession of and remove any enrolment records, registers, books or other documents apparently constituting evidence of the
30 conducting of a school;

(b) require any person to state his or her full name, home address and age; and

(c) take photographs of the interior or exterior of any building or part of a building.

(3) A person who—

(a) hinders or obstructs an inspector of schools in gaining entry to any premises or exercising any other power conferred by this section; or

(b) fails to comply with a requirement under subsection (2) (b),

5 is guilty of an offence and liable to a penalty not exceeding \$500.

(4) A person is not guilty of an offence under this section by reason of any act of hindrance or obstruction, or any default in compliance with a requirement, unless it is established that the inspector—

(a) identified himself or herself as an inspector of schools; and

10 (b) warned the person that that act or default constituted an offence.

(5) Nothing in this section authorises an inspector to enter any premises or a part of any premises used as a dwelling without a warrant under section 41.

Search warrant

15 41. (1) In this section, “authorised justice” means—

(a) a Magistrate; or

(b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department.

20 (2) An inspector of schools who believes on reasonable grounds that instruction is being given, in contravention of section 21, at any premises or a part of any premises used as a dwelling may apply to an authorised justice for a warrant authorising entry by the inspector of the premises or part of any premises so used, for the purpose of exercising the powers conferred by section 40.

25 (3) The authorised justice, if satisfied that there are reasonable grounds for doing so, may issue such a warrant.

(4) Part III of the Search Warrants Act 1985 applies to a warrant issued under this section.

Attendance officers

42. Any officer authorised by the Minister for the purposes of this section may—

(a) during school hours—

5 (i) approach any child who is apparently of or above the age of 6 and below the age of 15 and is apparently not in attendance at school as required by this Act; and

10 (ii) request the child to furnish to the officer the name and home address of, and the name and address of the school attended by, the child; and

(b) accompany the child to his or her home, or to a school, to verify the information furnished to the officer by the child.

Evidence

15 43. (1) In any proceedings under this Act, a certificate purporting to be under the hand of the principal teacher of a State school or registered school, stating that a child—

(a) was or was not, on any day specified in the certificate, enrolled as a student at the school; or

20 (b) did or did not, on any day or part of a day so specified, attend the school,

is admissible in evidence in any proceedings and is prima facie evidence of the matters stated in the certificate.

(2) In any proceedings under this Act—

(a) the court may take judicial notice of the apparent age of a child; and

25 (b) a child apparently of or above the age of 6 and below the age of 15 shall be presumed to be so until the court is satisfied to the contrary.

Proceedings for offences

30 44. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Acquisition and disposal of land

45. (1) The Minister may, for the purposes of this Act or jointly for those purposes and purposes of or associated with public education or recreation, acquire land—

- 5 (a) by purchase, lease or exchange; or
 (b) by resumption or appropriation under and subject to the Public Works Act 1912.

10 (2) The Minister may acquire, by gift made during a person's lifetime or by devise or bequest in the will or other testamentary disposition of any person, any property for use for purposes for which land may be acquired under subsection (1).

 (3) The Minister may agree to a condition of any such gift, devise or bequest, and the rule of law against remoteness of vesting does not apply to any such condition.

15 (4) The Minister may expend money on the improvement of any land acquired under this Act, or, for the purposes of this Act, on any other land, even though the improvement or the land may not be used solely for public education.

 (5) The Minister may—

- 20 (a) for any of the purposes for which land may be acquired under this section, grant a lease or licence of any land so acquired; and
 (b) in the case of land that is no longer required for the purpose for which it was acquired, grant a lease or licence of the land or sell the land.

25 (6) The Minister may make commercial use of land acquired under this section if that use is associated with a purpose for which land may be so acquired.

Power to rescind resumptions

30 46. (1) Except as provided by subsection (3), the Governor may, by notification published in the Gazette, rescind in whole or in part any notification of resumption made—

- (a) in accordance with this Act; or
 (b) for the purposes of State schools or any other schools authorised to be established in whole or in part at the public cost by any Act in
35 force for the time being.

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(2) Upon the publication of any notification of rescission, the land described in the notification—

5 (a) shall revert in the person who was entitled to it immediately before the resumption for the estate, interest or right which the person had immediately before the resumption, but subject to any interest in or equity binding upon the land created by the Constructing Authority since the resumption;

10 (b) shall be subject to all trusts, obligations, estates, interests, contracts, charges, rates and rights-of-way or other easements from which it was freed and discharged by the resumption; and

(c) shall be subject to any interests in or equities binding upon the compensation money that were created since the resumption.

15 (3) If a resumption application relating to land described or referred to in a notification of resumption made in pursuance of the Public Works Act 1912 has been lodged under section 31A (2) of the Real Property Act 1900 with the Registrar-General—

(a) a notification under subsection (1) published in the Gazette may not rescind so much of the notification of resumption as relates to that land; and

20 (b) any transfer of that land, after it has been brought under the provisions of the Real Property Act 1900, to the person who was entitled to it immediately before the resumption shall, for the purposes of subsection (5), be deemed, upon its registration under that Act—

25 (i) to revert that land under this section in the transferee; and

(ii) to rescind the resumption in so far as it relates to that land.

30 (4) On the lodgment with the Registrar-General of a copy of a notification published in the Gazette under this section that rescinds a notification of resumption of land under the provisions of the Real Property Act 1900, the Registrar-General shall—

(a) make, in the Register kept under that Act, such recordings with respect to the rescission; and

(b) create or cancel such folios of that Register,

as the Registrar-General considers appropriate.

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(5) The person in whom any land is revested under this section shall be entitled to be compensated by the Constructing Authority for any loss or damage actually suffered by the person as a direct consequence of the resumption and its rescission, other than compensation in respect of the value of the land.

(6) Any claim for compensation arising under this section shall be heard and determined in like manner and subject to the like conditions as a claim for compensation by reason of the acquisition of land under the Public Works Act 1912 by notification published in the Gazette, and the Land and Environment Court has jurisdiction accordingly.

Scholarships attached to schools (cf. 43 Vic. No. 23, s. 33)

47. (1) In addition to any sum which may be specially appropriated by Parliament for a similar purpose, any person may collect, raise or give a sum of money for or towards founding, in connection with any State school, a scholarship at any university, college of advanced education, State school or other institution, and land or money may for that purpose be devised or bequeathed.

(2) Such a scholarship shall be open to any student enrolled at the school, and if any school in respect of which a scholarship is founded is discontinued, the Minister may direct that the scholarship shall attach to some other school.

Schools with no principal teacher

48. If a school has no principal teacher—

- (a) any notice required or permitted to be given by or under this Act to the principal teacher of the school shall, if given to any of the teachers at the school, be deemed to have been given to every teacher at the school; and
- (b) an obligation imposed by or under this Act on the principal teacher shall be deemed to be an obligation imposed on every teacher at the school, but which may be discharged by any one of them on behalf of them all.

Regulations

49. (1) 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.

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(2) A regulation may create an offence punishable by a penalty not exceeding \$500.

(3) A provision of a regulation may—

- 5 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

10 Rules of the Board

50. (1) The Board may make rules, not inconsistent with this Act or the regulations, for or with respect to the granting of secondary certificates or otherwise concerning the exercise of any of its functions.

(2) A rule shall not take effect unless approved by the Minister.

- 15 (3) A rule shall be published as prescribed and shall take effect on the date of publication or a later date specified in the rule.

SCHEDULE 1

(Sec. 26 (2))

20 PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE SCHOOLS ACCREDITATION APPEALS TRIBUNAL

Qualifications

1. Of the members of the Tribunal—

- (a) one shall be a person having expertise in primary and secondary education in State schools;
- 25 (b) one shall be a person having expertise in primary and secondary education in registered schools; and
- (c) the remaining member, who shall be the presiding member, shall be a person who is not any of the following:
- (i) an officer or temporary employee of the Department of Education;
- 30 (ii) a member of the Board;

*Education and Public Instruction 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF
THE SCHOOLS ACCREDITATION APPEALS TRIBUNAL—*continued*

- (iii) a person concerned in the administration or conducting of a registered school or registered schools.

Age of members

2. A person of or above the age of 70 years is not eligible to be appointed as a member of the Tribunal or to act in the office of a member.

Term of office

3. Subject to this Schedule, a member shall hold office for such period (not exceeding 4 years) as may be specified in the instrument of the member's appointment, but is eligible (if otherwise qualified) for re-appointment.

10 **Acting members**

4. (1) The Minister may, from time to time, appoint a person to act in the office of a member of the Tribunal during the illness or absence of the member, and the person while so acting shall have and may exercise all the functions of the member.

- (2) An acting member shall have qualifications similar to those of the member for whom he or she acts.

Remuneration

5. A member of the Tribunal 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.

20 **Filling of vacancy in office of member**

6. If the office of any member of the Tribunal becomes vacant, a person shall, subject to this Schedule, be appointed to fill the vacancy for the remainder of that member's term of office.

Casual vacancies

- 25 7. A member of the Tribunal shall be deemed to have vacated office if the member—

- (a) dies;
- (b) 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;
- 30 (c) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;

*Education and Public Instruction 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF
THE SCHOOLS ACCREDITATION APPEALS TRIBUNAL—*continued*

- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- 5 (e) resigns the office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years; or
- (g) is removed from office by the Minister for reasons appearing to the Minister to be sufficient,
- or if, in the case of the presiding member, he or she becomes a person described in clause
- 10 1 (c) (i), (ii) or (iii).

General procedure

8. The procedure to be followed before any sittings of the Tribunal shall, subject to the regulations, be as the presiding member may determine.

Decisions

- 15 9. The decision of the majority of members of the Tribunal shall be the decision of the Tribunal.

SCHEDULE 2

(Sec. 29 (4))

PROVISIONS RELATING TO THE MEMBERS OF THE BOARD

20 **Appointed members**

1. (1) The members of the Board appointed by the Minister shall be—
- (a) 2 nominees of the Director-General;
- (b) a person employed in the Ministry of Education or a person concerned in the administration of an Act administered by the Minister;
- 25 (c) 2 nominees of the New South Wales Council of High School Principals, the nominees being principals of State secondary schools and members of the New South Wales Teachers Federation;
- (d) 2 nominees of the New South Wales Teachers Federation, the nominees being persons (other than principals) employed in a teaching capacity in State secondary
- 30 schools (and having been so employed for not less than 3 years);

*Education and Public Instruction 1987*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued*

- (e) 2 nominees of the Executive of the Federation of Parents and Citizens Associations of New South Wales, the nominees being parents or guardians of children attending State secondary schools;
 - 5 (f) 2 nominees of the Catholic Education Commission of New South Wales, one of whom shall be a parent;
 - (g) one nominee of the Headmasters' Conference and the Association of Heads of Independent Girls' Schools, the nominee being a principal of a registered secondary school;
 - 10 (h) one nominee of the Independent Teachers Association, the nominee being a person (other than a principal) employed in a teaching capacity in a registered secondary school (and having been so employed for not less than 3 years);
 - (i) one nominee of the New South Wales Vice-Chancellors' Committee;
 - (j) one nominee of the New South Wales Advanced Education Conference;
 - (k) one nominee of the Labor Council of New South Wales;
 - 15 (l) one person appointed by the Minister, after consultation with such organisations as the Minister thinks fit, as a member representing the interests of employers; and
 - 20 (m) one or 2 other persons having, in the Minister's opinion, qualifications or experience that enable them to make valuable contributions to education in New South Wales.
- (2) For the purposes of subclause (1), the Minister may require a person or body responsible for nominating a member or members of the Board to furnish a list of so many nominees as the Minister may specify, from which the Minister may select the nominee or nominees to be appointed.
- 25 (3) In default by the nominating person or body in complying with the requirement, the Minister may appoint such person or persons as the Minister may think fit.

Representation of certain interests

2. The composition of the Board at any time shall (as far as practicable) be such that—
- 30 (a) at least one member has professional experience or demonstrated interest in the education of girls;
 - (b) at least one member has professional experience or demonstrated interest in the education of children of ethnic or Aboriginal communities; and
 - 35 (c) at least one member has professional experience or demonstrated interest in primary education.

*Education and Public Instruction 1987***SCHEDULE 2—continued****PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—continued****Age of members**

3. A person of or above the age of 70 years is not eligible to be appointed as a member of the Board or to act in the office of a member.

Term of office

- 5 4. Subject to this Act, a member of the Board shall hold office for such period (not exceeding 4 years) as may be specified in the instrument of the member's appointment, but is eligible (if otherwise qualified) for re-appointment.

Alternative members

5. (1) The Minister may appoint a person to be an alternative member of the Board.
- 10 (2) The alternative member for the Director-General shall be an officer of the Department of Education.
- (3) The alternative members for members other than the Director-General shall be appointed by the Minister after consultation with the persons or bodies responsible for nominating those members.
- 15 (4) The provisions of this Schedule shall, with any necessary modifications, apply to and in respect of alternative members in the same way as they apply to members.
- (5) An alternative member may act in the office of the member for whom he or she is the alternative member during the illness or absence of that member and, while so acting, shall have and may exercise all the functions and entitlements of that member
- 20 and shall be deemed to be that member.

Remuneration

6. A member of the Board 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.

25 Filling of vacancy in office of member

7. If the office of any member of the Board becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy for the remainder of that member's term of office.

Casual vacancies

- 30 8. (1) A member of the Board shall be deemed to have vacated office if the member—
- (a) dies;
- 35 (b) absents himself or herself from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings;

*Education and Public Instruction 1987*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued*

- (c) 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;
 - 5 (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - 10 (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - (f) resigns the office by instrument in writing addressed to the Minister;
 - (g) attains the age of 70 years;
 - 15 (h) is removed from office by the Minister for reasons appearing to the Minister to be sufficient; or
 - (i) being a member nominated by a specified person or body, ceases to hold the qualifications or office necessary for his or her membership.
- (2) Without affecting the generality of subclause (1) (h), the Minister may remove from office a member who contravenes the provisions of clause 9.
- 20 **Disclosure of pecuniary interests**
9. (1) A member of the Board who, in terms of any guidelines determined by the Board for the purposes of this clause, has a direct or indirect pecuniary interest—
- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Board; or
 - 25 (b) in a thing being done or about to be done by the Board,
- shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) After a member has disclosed the nature of an interest in any matter or thing, the member shall not, unless the Minister otherwise determines—
- 30 (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or
 - (b) exercise any functions under this Act with respect to that thing.
- (3) Notwithstanding that a member contravenes the provisions of this clause, the contravention does not invalidate any decision of the Board or the exercise of any
- 35 function under this Act.

*Education and Public Instruction 1987*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued***Effect of certain other Acts**

10. (1) If by or under any other Act provision is made—

(a) requiring a person who is the holder of an office to devote the whole of his or her time to the duties of that office; or

5 (b) prohibiting the person from engaging in employment outside the duties of that office,

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

10 (2) The office of a member of the Board shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Liability of members, etc.

11. No matter or thing done by the Board, any member or any person acting under the direction of the Board shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

15

SCHEDULE 3

(Sec. 29 (5))

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD

20 General procedure

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

Quorum

2. The quorum for a meeting of the Board is 11 members.

25 Presiding member

3. (1) The Director-General or, in the absence of the Director-General, the person appointed as the alternative member for the Director-General, or in the absence of both, another member elected for the purpose by the members present at a meeting, shall preside at a meeting of the Board.

30 (2) The presiding member at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

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SCHEDULE 3—*continued*PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD—*continued***Voting**

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

Minutes

- 5 5. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

Proof of certain matters not required

6. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

- 10 (a) the constitution of the Board;
(b) any resolution of the Board;
(c) the appointment of, or the holding of any qualifications or office by, any member of the Board; or
(d) the presence or nature of a quorum at any meeting of the Board.

15 First meeting of the Board

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

EDUCATION AND PUBLIC INSTRUCTION BILL

*Schedule of amendment referred to in Legislative Council's
Message of 15 May 1987, A.M.*

No. 1—Page 10, clause 16, line 12. After “subsection”, insert “(6) or”.

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EDUCATION AND PUBLIC INSTRUCTION ACT 1987

No. 62

NEW SOUTH WALES



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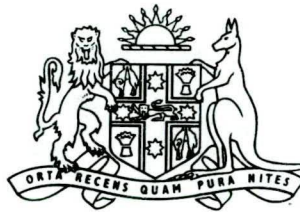
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SCHEDULE 3—PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD

EDUCATION AND PUBLIC INSTRUCTION ACT 1987 No. 62

NEW SOUTH WALES



Act No. 62, 1987

An Act to provide for education in State schools; to provide for the registration of other schools; to provide for the granting of certificates of secondary education and higher school certificates; to constitute a Board of Secondary Education and to define its functions; and for other purposes.
[Assented to 3 June 1987]

See also Miscellaneous Acts (Education and Public Instruction) Repeal and Amendment Act 1987.

Education and Public Instruction 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title

1. This Act may be cited as the "Education and Public Instruction Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Board of Secondary Education constituted by this Act;

"Director-General" means the person for the time being holding office or acting as the Director-General of Education;

"inspector of schools" means an officer of the Department of Education appointed as an inspector of schools or a person authorised in writing by the Minister or the Board to exercise the functions of an inspector of schools for the purposes of the provision in which the expression occurs;

"parents and citizens association" means an association constituted under this Act and consisting of parents and guardians of children attending any State school together with other residents of the district served by the school who are interested in the welfare of the school;

"principal teacher", in relation to a school, includes an acting principal teacher of the school;

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“proprietor”, in relation to a registered school, means the person designated, in the school’s certificate of registration, as the proprietor of the school;

“registered school” means a school for the time being registered under Part 4;

“regulations” means regulations under this Act;

“secondary certificate” means a certificate of secondary education, or a higher school certificate, granted under Part 6;

“State school” means a school established under this Act by the Minister.

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
-

PART 2

ATTENDANCE OF CHILDREN AT SCHOOL

Compulsory attendance

4. (1) It is the duty of the parent, guardian or other person having the custody or care of a child of or above the age of 6 and below the age of 15 to cause the child—

- (a) to be enrolled at a State school or registered school; and
- (b) to attend the school on each day on which instruction for the child is provided by the school.

(2) A person who, being the parent or guardian of a child of or above the age of 6 and below the age of 15, or having the custody or care of such a child—

- (a) neglects or fails to cause the child to be enrolled at a State school or registered school; or

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- (b) neglects or fails to cause the child to attend, at all times when the school is open for the child's instruction or participation in school activities, the State school or registered school at which the child is enrolled,

is guilty of an offence and liable to a penalty not exceeding \$1,000.

- (3) It is a defence to a prosecution under this section if—

- (a) the child is enrolled at, and regularly attends, in accordance with the law of another State or a Territory of the Commonwealth, a school in the other State or Territory;
- (b) the child has been expelled from a State school or cannot gain admission to any State school within the State; or
- (c) a certificate under section 6 has been granted in respect of the child and any conditions for the time being attached to the certificate are complied with.

- (4) It is also a defence to a prosecution under this section for a neglect or failure to cause a child to attend a State school or registered school if—

- (a) the child is enrolled at a State school that is a correspondence school and satisfies the requirements (if any) prescribed with respect to performance of school work;

- (b) the child was prevented from attending school by—

- (i) sickness, danger of infection or temporary or permanent infirmity; or

- (ii) some misadventure or unforeseen event,

and within 7 days of the occurrence of that sickness, danger or infirmity, or of that misadventure or unforeseen event, the defendant gave notice of it to the child's teacher;

- (c) at all material times the child attended a school which the defendant reasonably believed to be a State school or a registered school whose registration was appropriate for the education of the child;

- (d) the child has not been absent—

- (i) on more than 6 occasions; or

- (ii) for more than 3 days,

during the 3 months during which the school had been open immediately preceding the absence complained of; or

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- (e) the absence from school was by reason of the child's disobedience, and was not due to any neglect or default of the defendant.
- (5) A notice of the kind referred to in subsection (4) (b), or a record of its particulars, shall be kept by the principal teacher of the school and shall, in the case of a registered school, form part of the register referred to in section 5.
- (6) If a child has not been attending school regularly, the Minister may require the parent, guardian or other person having the custody or care of the child to attend, together with the child, a conciliation conference with an officer authorised by the Minister.

Register of enrolments and attendances

- 5. (1) The principal teacher of a registered school shall keep a register, in a form approved by the Minister, of the enrolments and daily attendances of all children at the school.
- (2) The register shall be available for inspection during school hours by an inspector of schools, who may require the principal teacher of the school to furnish to the inspector a copy of the register or any part of it.
- (3) When required to do so by the Minister, the principal teacher of a registered school shall furnish to the Minister information, within a time and in a form approved by the Minister, concerning the enrolment and attendance of children at the school during a specified period.
- (4) The particulars of enrolments and daily attendances recorded in a register under this section shall be retained for such period as the Minister may determine.
- (5) A principal teacher of a school who, without reasonable excuse, neglects or fails to comply with a requirement imposed by or under this section is guilty of an offence and liable to a penalty not exceeding \$500.

Certificate of exemption

- 6. (1) The Minister may grant a certificate exempting a child from attendance at a school as required by this Part, if the Minister is satisfied—
 - (a) that the child receives appropriate regular and efficient instruction at home; or
 - (b) that conditions exist which make it necessary or desirable that such a certificate should be granted.

(2) A certificate under this section may be given subject to conditions and may be limited in its operation to a period specified in the certificate.

PART 3

STATE SCHOOLS

Kinds of State schools

7. State schools shall be of 3 main kinds, namely:
- (a) primary schools, in which the main object shall be to afford the best primary education to all children without sectarian or class distinction;
 - (b) secondary schools, in which courses of study beyond the primary level, without sectarian or class distinction, shall be given;
 - (c) composite schools, in which both such primary education and courses of study beyond the primary level may be given.

Establishment, etc., of State schools

8. (1) The Minister may establish a school in any locality in which the Minister is satisfied there are sufficient children who will regularly attend the school.

(2) The Minister may name a State school or change the name of a State school.

(3) The Minister may close a State school.

(4) Notice of the Minister's decision to establish a school, to name or to change the name of a school or to close a school shall be published in the Gazette.

Instruction to be free

9. The instruction provided in State schools shall be free of charge.

Secular instruction

10. In State schools, the teaching shall consist of strictly non-sectarian and secular instruction, but the words "secular instruction" shall be taken to include general religious teaching, as distinct from dogmatic or polemical theology, and secular instruction shall include lessons in the history of Australia.

Special religious instruction

11. (1) In every State school, time shall be allowed for the religious instruction of children of any religious persuasion, but the total number of hours so allowed in a year shall not exceed, for each child, the number of school weeks in the year.

(2) The religious instruction to be given to children of any religious persuasion shall be given by a member of the clergy or other religious teacher of that persuasion authorised by the religious body to which the member of the clergy or other religious teacher belongs.

(3) The religious instruction to be given shall in every case be the religious instruction authorised by the religious body to which the member of the clergy or other religious teacher belongs.

(4) The times at which religious instruction is to be given to children of a particular religious persuasion shall be fixed by agreement between the principal teacher of the school and the local member of the clergy or other religious teacher of that persuasion.

(5) Children attending a religious instruction class shall be separated from other children at the school while the class is held.

(6) In any case where the religious instructor fails to attend the school at the appointed time, the children shall be given ordinary lessons during the period set aside for religious instruction.

Objection to religious instruction

12. No child at a State school shall be required to receive any general religious teaching or special religious instruction if the parent, guardian or other person having the custody or care of the child objects to the child's receiving that teaching or instruction.

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Admission to State schools

13. (1) The Minister may refuse the admission of a child to a State school if—

- (a) the child's home is within the prescribed distance of another State school at which there is accommodation for the child;
- (b) the child's home is within the intake area, designated by the Minister, of another State school;
- (c) the child has been expelled from any State school; or
- (d) the Minister is of the opinion that there is other sufficient reason to refuse the admission of the child to a State school.

(2) The Minister may designate intake areas for State schools, with boundaries shown on a map which shall be made available for public inspection.

Discipline in State schools

14. (1) The Minister may control and regulate student discipline at State schools.

(2) Without limiting the generality of subsection (1), the Minister may suspend or expel from a State school a child of any age.

PART 4**REGISTRATION OF SCHOOLS****Registration authority**

15. For the purposes of this Part—

- (a) the Board shall be the registration authority for schools in so far as they provide or propose to provide education to candidates for either or both of the secondary certificates; and
- (b) the Minister shall be the registration authority for schools in so far as they provide primary education or education for children of a kind prescribed for the purposes of section 16 (5),

and, in relation to any particular school, a reference in this Part to the registration authority shall be read as a reference to the Board, the Minister, or both, depending on the education provided or to be provided at the school.

Establishment of registered schools

16. (1) A person who proposes to establish a new school (other than a State school) may apply to the registration authority for registration of the school.

(2) As soon as practicable after the end of the period of 12 months immediately following receipt of the application for registration, the registration authority—

(a) if satisfied that—

- (i) the school will provide regular and efficient instruction;
- (ii) the educational facilities at the school will be adequate for the courses of instruction intended to be provided at the school; and
- (iii) any requirements of the regulations in relation to courses of instruction, patterns of study, educational facilities and other prescribed matters will be complied with; and

(b) if satisfied that the premises and buildings in which it is proposed to conduct the school are generally satisfactory and accord with any standards prescribed by the regulations in respect of access, drainage, light, ventilation, sanitary conveniences and other prescribed matters,

shall register the school on a list kept for that purpose.

(3) Nothing in subsection (2) or the regulations shall be taken to require a school to comply, in respect of any amenities or other matters referred to in that subsection, with standards higher than the standards to which State schools, similarly situated and circumstanced, generally conform.

(4) On initial registration by a registration authority, a certificate of registration shall be issued in respect of the school, which shall have effect for a period of 6 months commencing on a date specified in the certificate.

(5) The certificate may certify the school as efficient for the education of candidates for the higher school certificate, for secondary education for any specified Years, for primary education for any specified Years or for the education of prescribed kinds of children.

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(6) A proposal by the proprietor of a registered school to provide at the school education for a Year, or to any kind of children, different from the Years or the kind of children in respect of which the school is certified, by its current certificate of registration, as efficient, shall be dealt with under this section as if the proposal were a proposal to establish a new school.

(7) A proposal by any person to re-establish a school or part of a school—

- (a) which has for any reason become unregistered; or
- (b) which, it is anticipated, will become unregistered by the operation of a provision of this Part,

shall be dealt with under this section as if it were a proposal to establish a new school.

(8) Registration of a school to which subsection (6) or (7) applies shall be granted as soon as practicable after the registration authority is satisfied as to the matters referred to in subsection (2) (a) and (b).

Inspection of schools

17. The registration authority shall cause each registered school to be inspected by an inspector of schools—

- (a) before the end of the period of 6 months of initial registration of the school;
- (b) before the end of each period for which the school's registration is renewed; and
- (c) at such other times as the registration authority may determine,

to monitor the school's efficiency and ascertain the condition of its buildings and premises.

Registration of schools

18. (1) The registration authority, if satisfied upon inspection and report by an inspector of schools—

- (a) that the instruction provided at a registered school is regular and efficient and in accordance with the terms of its current certificate of registration, that the educational facilities at the school are adequate for the courses of instruction provided and that any other requirements referred to in section 16 (2) (a) are being complied with; and

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- (b) that the buildings and premises in which the school is conducted remain satisfactory and in accordance with the standards referred to in section 16 (2) (b),

shall issue a further certificate of registration for the school, which, subject to section 19 (1), shall have effect for a period (not exceeding 6 years) specified in the certificate commencing on a date so specified.

(2) The registration authority, if not satisfied as to the matters referred to in subsection (1), may send a notice to the proprietor or principal teacher of the school.

(3) The notice—

- (a) shall state that a further certificate of registration will not be issued until the necessary improvements specified in the notice have been made for the improvement of the school or its buildings and premises; and
- (b) may specify the time within which any such improvements should be made.

(4) The registration authority may, by a notice under subsection (2) or by a subsequent notice, extend the period for which the school's registration was granted or last renewed, in order to enable improvements to be made.

(5) More than one such extension may be granted.

(6) The registration authority shall keep a list of registered schools and shall from time to time publish the list in the Gazette.

Unregistered schools

19. (1) A registered school or part of a registered school becomes unregistered if—

- (a) notice of a decision of the registration authority not to renew the registration of the school or part of the school has been given and—
 - (i) 30 days have elapsed since the giving of that notice, during which time no appeal under section 27 has been lodged against the decision; or
 - (ii) the decision has been upheld on an appeal under section 27 or the appeal has been withdrawn;
- (b) its registration has been effectively cancelled under section 20; or
- (c) its registration has ceased by the operation of section 23 (3) or of regulations made for the purposes of section 25 (3).

(2) If a school or part of a school becomes unregistered, the parents of children enrolled at the school shall forthwith be given notice of that fact in writing by the proprietor or principal teacher of the school.

(3) The notice may be given to a child at the school with instructions to deliver it to the child's parents or may be sent by post or otherwise delivered to the parents.

(4) If notice is not given to a parent as required by this section, the proprietor and principal teacher of the school, unless it is shown that reasonable measures were taken to give the notice, are each guilty of an offence and liable to a penalty not exceeding \$500.

(5) A reference in this section to the parent of a child includes a reference to a guardian or other person having the custody or care of the child.

Cancellation of registration

20. (1) The registration authority may, by notice to the proprietor or principal teacher of the school, cancel the registration of the school or part of the school if—

(a) a notice under section 18 has not been complied with;

(b) the registration authority is satisfied that—

(i) the instruction provided at the school has deteriorated to such an extent;

(ii) the educational facilities at the school have deteriorated to such an extent; or

(iii) the buildings and premises of the school are in such an unsatisfactory condition,

that the registration of the school or of a part of the school should be cancelled; or

(c) courses of instruction are being provided in contravention of section 21 (2).

(2) Cancellation of the registration of a school or part of a school takes effect if notice of the cancellation has been given and—

(a) 30 days have elapsed since the giving of that notice, during which time no appeal under section 27 has been lodged against the cancellation; or

(b) the cancellation has been upheld on an appeal under section 27 or the appeal has been withdrawn.

Conducting of unregistered schools

21. (1) A person shall not conduct or knowingly permit or assist in the conducting of a school at which children of or above the age of 6 and below the age of 15 are instructed and which is not registered under this Part.

(2) A person, being the proprietor or principal teacher of a registered school or another teacher at the school, shall not provide or offer to provide a course of instruction represented by any such person to be a course appropriate for—

- (a) candidates for one or other of the secondary certificates;
- (b) primary school children of any Year; or
- (c) the education of children of a kind prescribed for the purposes of section 16 (5),

unless the school is registered as efficient for the education of those candidates or other children.

(3) The registration authority shall have standing before the Supreme Court to obtain an injunction requiring any person to refrain or desist from contravening this section.

Certificate to be displayed

22. (1) The current certificate of registration of a registered school shall be displayed in the entrance to the main school building or in some other conspicuous place at the school.

(2) If the certificate is not so displayed, the principal teacher of the school is guilty of an offence and liable to a penalty not exceeding \$500.

Relocation of schools

23. (1) If a registered school or part of a registered school is proposed to be moved to new premises, notice shall be given to the registration authority at least 3 months before the relocation.

(2) If notice of the relocation is not duly given, the proprietor and principal teacher of the school are each guilty of an offence and liable to a penalty not exceeding \$500.

(3) If a school or part of a school is relocated, the school's registration ceases upon the relocation.

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(4) Subsection (3) does not operate so as to affect the registration of a school the whole or part of which has been relocated because—

- (a) the school or part of the school has been damaged; or
- (b) access to the school or part of the school has been cut off,

by any event in the nature of an act of God or other cause neither contemplated nor reasonably foreseeable by the proprietor or principal teacher of the school.

(5) Nothing in subsection (4) affects any of the powers of the registration authority.

(6) A reference in this section to the relocation of a registered school or part of such a school does not include a reference to the relocation of any playing field, sporting facility or other premises or building unconnected with—

- (a) the giving of courses of instruction; or
- (b) the amenity of teachers and students participating in those courses.

Sale of schools

24. (1) If a registered school is sold, notice of the sale shall be given to the registration authority within 7 days after completion of the sale.

(2) If notice of the sale is not duly given, the purchaser of the school is guilty of an offence and liable to a penalty not exceeding \$500.

(3) Upon completion of the sale of a school, the unexpired portion of its current period of registration, if greater than 6 months, shall be deemed for the purposes of this Act to be 6 months only.

Changes in circumstances of operation of schools

25. (1) If a registered school undergoes, or is proposed to undergo, any change of a prescribed kind in the circumstances of its operation, notice of that change shall be given in accordance with the regulations.

(2) If notice of the change is not duly given, the proprietor and principal teacher of the school are each guilty of an offence and liable to a penalty not exceeding \$500.

(3) The regulations may provide that, in the event of any specified change (of a prescribed kind) in the circumstances of the operation of a school, the registration of the school or a part of the school—

- (a) shall cease; or

- (b) shall be limited to a period specified in the regulations.

Schools Accreditation Appeals Tribunal

26. (1) There shall be a Schools Accreditation Appeals Tribunal consisting of 3 members appointed by the Minister.

(2) Schedule 1 has effect with respect to the constitution and procedure of the Tribunal.

(3) The Tribunal shall have and may exercise the functions of the registration authority in relation to the matter the subject of the appeal.

(4) In the exercise of its functions, the Tribunal shall do all such things as are necessary to ensure—

- (a) that appeals are set down for hearing with as much expedition as is reasonably practicable; and
- (b) that proceedings are conducted with as little formality and technicality as the proper consideration of matters before the Tribunal permits.

(5) The Tribunal shall not renew the registration of a school for a period longer than 12 months.

(6) The Tribunal's determination of an appeal is final.

(7) If an appeal is brought against a decision of the registration authority—

- (a) not to renew the registration of a school or part of a school; or
- (b) to cancel or vary the terms of a school's registration,

that decision has no force or effect unless (nor until such time as) the Tribunal decides to uphold it.

Appeals

27. (1) The proprietor or principal teacher of a school may appeal to the Tribunal established by section 26 against a decision of the registration authority—

- (a) not to register the school or a part of the school;
- (b) not to renew the registration of the school or a part of the school;
or
- (c) to cancel or vary the terms of the school's registration.

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(2) An applicant for registration of a school may, at any time later than 12 months after lodgment of the application, by notice in writing request the registration authority to determine the application within 30 days.

(3) A failure by the registration authority to determine an application for registration of a school or part of a school—

(a) in the case of a school to which section 16 (7) applies—within the period of 60 days following lodgment of the application; or

(b) in any other case—within the period of 30 days following service of a notice under subsection (2),

shall be regarded, for the purposes of this section, as a decision of the registration authority not to register the school or part of the school.

(4) An appeal shall be lodged—

(a) within 30 days of the giving of notice of the decision against which the appeal is brought; or

(b) in the case of an appeal arising from a failure referred to in subsection (3)—within 30 days of the end of the relevant period referred to in paragraph (a) or (b) of that subsection.

(5) An appeal shall be heard and dealt with as prescribed.

Returns by schools

28. (1) The proprietor or principal teacher of a registered school shall furnish returns to the registration authority concerning the matters referred to in section 18 (1) in forms approved by the registration authority for the purpose.

(2) If a return is not duly furnished, the proprietor and principal teacher of the school are each guilty of an offence and liable to a penalty not exceeding \$500.

PART 5**THE BOARD OF SECONDARY EDUCATION****Constitution of the Board**

29. (1) There is constituted by this Act a corporation under the corporate name of the "Board of Secondary Education".

(2) The Board—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this Act or any other law; and
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

(3) The Board shall consist of not less than 20 and not more than 21 members, of whom—

- (a) the Director-General (who shall be a member of the Board by virtue of holding or acting in that office) shall, subject to Schedule 3, be the presiding member;
- (b) one shall be the person for the time being holding office or acting as the Director-General of Technical and Further Education or a nominee of that Director-General; and
- (c) the remainder shall be appointed by the Minister as part-time members in accordance with the provisions of clause 1 of Schedule 2.

(4) Schedule 2 has effect with respect to the members of the Board.

(5) Schedule 3 has effect with respect to the procedure of the Board.

Functions of the Board

30. (1) The Board has the following functions:

- (a) to determine or approve courses of studies to be undertaken by candidates for certificates of secondary education, and to grant certificates of secondary education;
- (b) to determine or approve courses of studies to be undertaken by candidates for higher school certificates, and to grant higher school certificates;
- (c) to make such arrangements as may be necessary for the conduct of examinations or other forms of assessment of candidates for the secondary certificates, and to regulate the conduct of those examinations or other forms of assessment and the recording of candidates' achievements in them;
- (d) to exercise, in accordance with section 15, the functions of a registration authority under Part 4;

- (e) to recognise, for any of the purposes of this Act and the regulations, educational attainments obtained at educational institutions outside New South Wales;
 - (f) to provide advice and guidance to schools concerning the policies and practices of the Board;
 - (g) to provide advice and assistance to students, employers and the public concerning the nature and content of secondary education courses and the assessment and reporting of students' achievements in them;
 - (h) to advise and make recommendations to the Minister in relation to—
 - (i) matters connected with, or concerning the conduct of, examinations and other forms of assessment of candidates for the secondary certificates;
 - (ii) patterns of study, including the balance between any compulsory and optional courses of study or experiences required of candidates for either of the secondary certificates;
 - (iii) the nature and purpose of any rules and regulations under Part 8 governing the registration of schools offering secondary education; and
 - (iv) any matter in relation to which the Minister requests the Board's advice; and
 - (i) to monitor, by inspection of schools and otherwise, the application of its policies in schools.
- (2) The Board may appoint, as may be necessary and for such period as may appear to the Board to be desirable—
- (a) committees to make recommendations to the Board concerning the content of courses of study in any area or subject pertaining to secondary education; and
 - (b) such other committees as the Board considers appropriate to assist it in the exercise of its functions.
- (3) It does not matter if any or all of the members of a committee are not members of the Board.
- (4) The procedure of a committee, and the quorum for a meeting of the committee, shall be as determined by the Board or (subject to any determination of the Board) by the committee.

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(5) The Board shall not exercise any of its functions so as—

- (a) to introduce or seek the introduction of any new policy; or
- (b) to change or seek to change any policy,

relating to the overall planning, allocation or use of educational resources unless it has first consulted with the Education Commission of New South Wales concerning the proposed introduction or change of policy.

(6) The Board shall, at least once every 4 years, present the Minister with a review of current policies and future directions for secondary education.

Casual staff

31. The presiding member of the Board may—

- (a) in connection with the exercise of its functions in respect of examinations or other forms of assessment or for any purpose approved by the Minister; and
- (b) on terms and conditions determined by the Director-General in consultation with the Education Commission of New South Wales or the Public Service Board, as the nature of the duties warrants,

employ casual staff.

PART 6**CERTIFICATES OF EDUCATION****Certificates of secondary education**

32. (1) Certificates of secondary education shall be granted by the Board to students—

- (a) who have attended a State secondary or composite school, a school registered by the Board or a school outside New South Wales recognised by the Board;
- (b) who have participated, to the Board's satisfaction, in courses of studies which the Board has determined or approved under section 30 (1) (a) as appropriate to be undertaken by candidates for the certificate of secondary education;

- (c) who have been accepted by the Board as having satisfactorily completed those courses of studies or an approved stage of those courses;
- (d) who have, to the satisfaction of the Board, undertaken any requisite examinations or other forms of assessment; and
- (e) who have complied with any prescribed requirements or any requirements imposed by the Minister or the Board.

(2) The Board may refuse to grant a certificate of secondary education to a student whose attendance or application at school has been of such an unsatisfactory character that the grant of the certificate would not, in the opinion of the Board, be justified.

Higher school certificates

33. (1) Higher school certificates shall be granted by the Board to students—

- (a) who are qualified for the grant of a certificate of secondary education or who have attained such qualifications as the Board considers satisfactory;
- (b) who—
 - (i) have attended, for a prescribed period, a State secondary or composite school, a school registered by the Board, a school outside New South Wales recognised by the Board or a college within the meaning of the Technical and Further Education Act 1974; and
 - (ii) have there participated, to the Board's satisfaction, in courses of studies which the Board has determined or approved under section 30 (1) (b) as appropriate to be undertaken by candidates for the higher school certificate;
- (c) who have been accepted by the Board as having satisfactorily completed those courses of studies;
- (d) who have, to the satisfaction of the Board, undertaken any requisite examinations or other forms of assessment; and
- (e) who have complied with any prescribed requirements or any requirements imposed by the Minister or the Board.

(2) The Board may refuse to grant a higher school certificate to a student whose attendance or application at school has been of such an unsatisfactory character that the grant of the certificate would not, in the opinion of the Board, be justified.

Certificate candidates affected by illness, etc.

34. (1) If the Board is satisfied that a candidate for one of the secondary certificates was unable, by reason of illness or misadventure, to undertake an examination or other form of assessment for that certificate, the Board may determine that the candidate shall be treated, for the purposes of this Act, as—

- (a) having undertaken that examination or other form of assessment; and
- (b) having attained in that examination or other form of assessment a standard determined by the Board.

(2) The Board may—

- (a) on evidence put before it, conclude that a candidate for one of the secondary certificates at an examination or other form of assessment for that certificate was seriously affected by illness or misadventure; and
- (b) determine that the candidate shall be treated, for the purposes of this Act, as having attained in that examination or other form of assessment a standard determined by the Board.

(3) In determining a standard for the purposes of this section, the Board shall have regard to such evidence as is available to the Board relating to the candidate's participation in the course of study to which the examination or other form of assessment related.

(4) The Board is not obliged to make a determination under this section except on application—

- (a) made to it within the prescribed period; and
- (b) supported by evidence acceptable to the Board.

Reconsideration of decisions

35. (1) If a person who considers himself or herself to be adversely affected by a decision of the Board in relation to the award of a certificate of secondary education or a higher school certificate requests the Board to reconsider the decision, the Board shall, subject to the rules made under section 50—

- (a) reconsider; and
- (b) confirm, reverse or vary,

the decision.

(2) The Board's decision in relation to the request is final.

(3) Rules made under section 50 may make provision for or with respect to—

- (a) the manner in which, and the time within which, a request under this section must be made;
- (b) the procedures to be adopted in dealing with any such request; and
- (c) any other matter relevant to the disposal of any such request.

PART 7**PARENTS AND CITIZENS AND KINDRED ASSOCIATIONS****Constitution of associations and councils**

36. (1) A parents and citizens association or a kindred association may be constituted in connection with any State school in accordance with the regulations.

(2) The Minister may establish a district council, constituted in accordance with the regulations, for any prescribed area.

Objects and functions

37. (1) The objects of an association are—

- (a) to promote the interests of the school by bringing parents, citizens, students and teaching staff into close co-operation; and

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- (b) to assist in providing facilities and equipment for the school and in promoting the recreation and welfare of the students at the school.
- (2) The functions of an association shall be—
 - (a) to report, when requested by the Minister, upon the material requirements of the school and to advise on the subject of minor repairs, alterations and additions to the school buildings and the selection of new sites;
 - (b) to assist and co-operate with the teaching staff in public functions associated with the school;
 - (c) to assist in arranging for the accommodation of teachers, in the conveyance of children attending the school, and in any other matters in which the Minister may seek the co-operation of the association; and
 - (d) to exercise such other functions as may be prescribed.
- (3) The object of a district council shall be to advance the common interests of State schools within the area for which it is constituted, and for that purpose a district council may—
 - (a) advise the Minister upon all matters (other than staff matters) relating to State schools within the area;
 - (b) assist in raising funds for establishing and maintaining scholarships for pupils attending State schools within the area;
 - (c) assist, when required, in the arrangement and supervision of contracts for the conveyance of children to State schools;
 - (d) assist in the establishment and maintenance of libraries in connection with State schools within the area; and
 - (e) exercise such other functions as may be prescribed.

Rules of associations and councils

38. (1) Each association and district council shall, subject to this Act and the regulations, make rules for the conduct of its business and affairs, but those rules shall not be operative unless (nor until such time as) they are approved by the Minister.

(2) Any of a set of standard or model rules published by the Minister as prescribed and adopted by an association or district council shall be deemed, for the purposes of subsection (1), to be approved by the Minister and shall take effect upon their adoption.

PART 8

GENERAL

Delegation by the Minister and the Board

39. (1) The Minister or the Board may delegate to any person or body (including, in the case of a delegation by the Board, any committee of the Board) the exercise of any of their respective functions under this Act (other than the power of delegation conferred by this section).

(2) A delegation—

- (a) may specify the delegate by name or may designate a particular officer, or the holder of a particular office, as the delegate by reference to the title of the office concerned;
- (b) may be general or limited;
- (c) shall be in, or be evidenced by, writing signed by the delegator or, if the delegator is the Board, by a person authorised by the Board for that purpose; and
- (d) may be revoked, wholly or partly, by the delegator.

(3) A delegated function may be exercised only in accordance with any conditions to which the delegation is subject.

(4) A delegate may, in the exercise of a delegated function, exercise any other function that is incidental to the delegated function.

(5) A delegated function that purports to have been exercised by a delegate shall, until the contrary is proved, be taken to have been duly exercised by the delegate.

(6) A delegated function that is duly exercised by a delegate shall be taken to have been exercised by the delegator.

(7) If—

(a) the exercise of a function by the Minister or the Board is dependent on the opinion, belief or state of mind of the Minister or the Board in relation to any matter; and

(b) the Minister or the Board has delegated the function,

the function may be exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to any such matter.

(8) If a function is delegated to a particular officer or the holder of a particular office—

(a) the delegation does not cease to have effect merely because the person who was the particular officer or the holder of the particular office when the function was delegated ceases to be that officer or the holder of that office; and

(b) the function may be exercised (or, in the case of a duty, shall be performed) by the person for the time being occupying or acting in the office concerned.

(9) A function that has been delegated may, notwithstanding the delegation, be exercised by the delegator.

Entry to premises

40. (1) For the purposes of an inspection under this Act, an inspector of schools shall at all reasonable times have full and free access to the premises and buildings and enrolment and attendance records of any school.

(2) An inspector of schools who believes on reasonable grounds that instruction is being given at any premises in contravention of section 21 may at any reasonable time enter any part of those premises and may—

(a) take possession of and remove any enrolment records, registers, books or other documents apparently constituting evidence of the conducting of a school;

(b) require any person to state his or her full name, home address and age; and

(c) take photographs of the interior or exterior of any building or part of a building.

(3) A person who—

(a) hinders or obstructs an inspector of schools in gaining entry to any premises or exercising any other power conferred by this section; or

(b) fails to comply with a requirement under subsection (2) (b),
is guilty of an offence and liable to a penalty not exceeding \$500.

(4) A person is not guilty of an offence under this section by reason of any act of hindrance or obstruction, or any default in compliance with a requirement, unless it is established that the inspector—

(a) identified himself or herself as an inspector of schools; and

(b) warned the person that that act or default constituted an offence.

(5) Nothing in this section authorises an inspector to enter any premises or a part of any premises used as a dwelling without a warrant under section 41.

Search warrant

41. (1) In this section, “authorised justice” means—

(a) a Magistrate; or

(b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department.

(2) An inspector of schools who believes on reasonable grounds that instruction is being given, in contravention of section 21, at any premises or a part of any premises used as a dwelling may apply to an authorised justice for a warrant authorising entry by the inspector of the premises or part of any premises so used, for the purpose of exercising the powers conferred by section 40.

(3) The authorised justice, if satisfied that there are reasonable grounds for doing so, may issue such a warrant.

(4) Part III of the Search Warrants Act 1985 applies to a warrant issued under this section.

Attendance officers

42. Any officer authorised by the Minister for the purposes of this section may—

(a) during school hours—

(i) approach any child who is apparently of or above the age of 6 and below the age of 15 and is apparently not in attendance at school as required by this Act; and

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- (ii) request the child to furnish to the officer the name and home address of, and the name and address of the school attended by, the child; and
- (b) accompany the child to his or her home, or to a school, to verify the information furnished to the officer by the child.

Evidence

43. (1) In any proceedings under this Act, a certificate purporting to be under the hand of the principal teacher of a State school or registered school, stating that a child—

- (a) was or was not, on any day specified in the certificate, enrolled as a student at the school; or
- (b) did or did not, on any day or part of a day so specified, attend the school,

is admissible in evidence in any proceedings and is prima facie evidence of the matters stated in the certificate.

(2) In any proceedings under this Act—

- (a) the court may take judicial notice of the apparent age of a child; and
- (b) a child apparently of or above the age of 6 and below the age of 15 shall be presumed to be so until the court is satisfied to the contrary.

Proceedings for offences

44. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Acquisition and disposal of land

45. (1) The Minister may, for the purposes of this Act or jointly for those purposes and purposes of or associated with public education or recreation, acquire land—

- (a) by purchase, lease or exchange; or
- (b) by resumption or appropriation under and subject to the Public Works Act 1912.

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(2) The Minister may acquire, by gift made during a person's lifetime or by devise or bequest in the will or other testamentary disposition of any person, any property for use for purposes for which land may be acquired under subsection (1).

(3) The Minister may agree to a condition of any such gift, devise or bequest, and the rule of law against remoteness of vesting does not apply to any such condition.

(4) The Minister may expend money on the improvement of any land acquired under this Act, or, for the purposes of this Act, on any other land, even though the improvement or the land may not be used solely for public education.

(5) The Minister may—

- (a) for any of the purposes for which land may be acquired under this section, grant a lease or licence of any land so acquired; and
- (b) in the case of land that is no longer required for the purpose for which it was acquired, grant a lease or licence of the land or sell the land.

(6) The Minister may make commercial use of land acquired under this section if that use is associated with a purpose for which land may be so acquired.

Power to rescind resumptions

46. (1) Except as provided by subsection (3), the Governor may, by notification published in the Gazette, rescind in whole or in part any notification of resumption made—

- (a) in accordance with this Act; or
- (b) for the purposes of State schools or any other schools authorised to be established in whole or in part at the public cost by any Act in force for the time being.

(2) Upon the publication of any notification of rescission, the land described in the notification—

- (a) shall revert in the person who was entitled to it immediately before the resumption for the estate, interest or right which the person had immediately before the resumption, but subject to any interest in or equity binding upon the land created by the Constructing Authority since the resumption;

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- (b) shall be subject to all trusts, obligations, estates, interests, contracts, charges, rates and rights-of-way or other easements from which it was freed and discharged by the resumption; and
 - (c) shall be subject to any interests in or equities binding upon the compensation money that were created since the resumption.
- (3) If a resumption application relating to land described or referred to in a notification of resumption made in pursuance of the Public Works Act 1912 has been lodged under section 31A (2) of the Real Property Act 1900 with the Registrar-General—
- (a) a notification under subsection (1) published in the Gazette may not rescind so much of the notification of resumption as relates to that land; and
 - (b) any transfer of that land, after it has been brought under the provisions of the Real Property Act 1900, to the person who was entitled to it immediately before the resumption shall, for the purposes of subsection (5), be deemed, upon its registration under that Act—
 - (i) to revest that land under this section in the transferee; and
 - (ii) to rescind the resumption in so far as it relates to that land.
- (4) On the lodgment with the Registrar-General of a copy of a notification published in the Gazette under this section that rescinds a notification of resumption of land under the provisions of the Real Property Act 1900, the Registrar-General shall—
- (a) make, in the Register kept under that Act, such recordings with respect to the rescission; and
 - (b) create or cancel such folios of that Register,
- as the Registrar-General considers appropriate.
- (5) The person in whom any land is revested under this section shall be entitled to be compensated by the Constructing Authority for any loss or damage actually suffered by the person as a direct consequence of the resumption and its rescission, other than compensation in respect of the value of the land.
- (6) Any claim for compensation arising under this section shall be heard and determined in like manner and subject to the like conditions as a claim for compensation by reason of the acquisition of land under the Public Works Act 1912 by notification published in the Gazette, and the Land and Environment Court has jurisdiction accordingly.

Scholarships attached to schools (cf. 43 Vic. No. 23, s. 33)

47. (1) In addition to any sum which may be specially appropriated by Parliament for a similar purpose, any person may collect, raise or give a sum of money for or towards founding, in connection with any State school, a scholarship at any university, college of advanced education, State school or other institution, and land or money may for that purpose be devised or bequeathed.

(2) Such a scholarship shall be open to any student enrolled at the school, and if any school in respect of which a scholarship is founded is discontinued, the Minister may direct that the scholarship shall attach to some other school.

Schools with no principal teacher

48. If a school has no principal teacher—

- (a) any notice required or permitted to be given by or under this Act to the principal teacher of the school shall, if given to any of the teachers at the school, be deemed to have been given to every teacher at the school; and
- (b) an obligation imposed by or under this Act on the principal teacher shall be deemed to be an obligation imposed on every teacher at the school, but which may be discharged by any one of them on behalf of them all.

Regulations

49. (1) 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.

(2) A regulation may create an offence punishable by a penalty not exceeding \$500.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

Rules of the Board

50. (1) The Board may make rules, not inconsistent with this Act or the regulations, for or with respect to the granting of secondary certificates or otherwise concerning the exercise of any of its functions.

(2) A rule shall not take effect unless approved by the Minister.

(3) A rule shall be published as prescribed and shall take effect on the date of publication or a later date specified in the rule.

SCHEDULE 1

(Sec. 26 (2))

**PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE
OF THE SCHOOLS ACCREDITATION APPEALS TRIBUNAL**

Qualifications

1. Of the members of the Tribunal—

- (a) one shall be a person having expertise in primary and secondary education in State schools;
- (b) one shall be a person having expertise in primary and secondary education in registered schools; and
- (c) the remaining member, who shall be the presiding member, shall be a person who is not any of the following:
 - (i) an officer or temporary employee of the Department of Education;
 - (ii) a member of the Board;
 - (iii) a person concerned in the administration or conducting of a registered school or registered schools.

Age of members

2. A person of or above the age of 70 years is not eligible to be appointed as a member of the Tribunal or to act in the office of a member.

Term of office

3. Subject to this Schedule, a member shall hold office for such period (not exceeding 4 years) as may be specified in the instrument of the member's appointment, but is eligible (if otherwise qualified) for re-appointment.

*Education and Public Instruction 1987*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF
THE SCHOOLS ACCREDITATION APPEALS TRIBUNAL—*continued***Acting members**

4. (1) The Minister may, from time to time, appoint a person to act in the office of a member of the Tribunal during the illness or absence of the member, and the person while so acting shall have and may exercise all the functions of the member.

(2) An acting member shall have qualifications similar to those of the member for whom he or she acts.

Remuneration

5. A member of the Tribunal 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.

Filling of vacancy in office of member

6. If the office of any member of the Tribunal becomes vacant, a person shall, subject to this Schedule, be appointed to fill the vacancy for the remainder of that member's term of office.

Casual vacancies

7. A member of the Tribunal shall be deemed to have vacated office if the member—

- (a) dies;
- (b) 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;
- (c) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (e) resigns the office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years; or
- (g) is removed from office by the Minister for reasons appearing to the Minister to be sufficient,

or if, in the case of the presiding member, he or she becomes a person described in clause 1 (c) (i), (ii) or (iii).

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SCHEDULE 1—*continued*PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF
THE SCHOOLS ACCREDITATION APPEALS TRIBUNAL—*continued***General procedure**

8. The procedure to be followed before any sittings of the Tribunal shall, subject to the regulations, be as the presiding member may determine.

Decisions

9. The decision of the majority of members of the Tribunal shall be the decision of the Tribunal.

SCHEDULE 2

(Sec. 29 (4))

PROVISIONS RELATING TO THE MEMBERS OF THE BOARD

Appointed members

1. (1) The members of the Board appointed by the Minister shall be—
 - (a) 2 nominees of the Director-General;
 - (b) a person employed in the Ministry of Education or a person concerned in the administration of an Act administered by the Minister;
 - (c) 2 nominees of the New South Wales Council of High School Principals, the nominees being principals of State secondary schools and members of the New South Wales Teachers Federation;
 - (d) 2 nominees of the New South Wales Teachers Federation, the nominees being persons (other than principals) employed in a teaching capacity in State secondary schools (and having been so employed for not less than 3 years);
 - (e) 2 nominees of the Executive Council of the Federation of Parents and Citizens Associations of New South Wales, the nominees being parents or guardians of children attending State secondary schools;
 - (f) 2 nominees of the Catholic Education Commission of New South Wales, one of whom shall be a parent;
 - (g) one nominee of the Headmasters' Conference and the Association of Heads of Independent Girls' Schools, the nominee being a principal of a registered secondary school;
 - (h) one nominee of the Independent Teachers Association, the nominee being a person (other than a principal) employed in a teaching capacity in a registered secondary school (and having been so employed for not less than 3 years);

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- (i) one nominee of the New South Wales Vice-Chancellors' Committee;
- (j) one nominee of the New South Wales Advanced Education Conference;
- (k) one nominee of the Labor Council of New South Wales;
- (l) one person appointed by the Minister, after consultation with such organisations as the Minister thinks fit, as a member representing the interests of employers; and
- (m) one or 2 other persons having, in the Minister's opinion, qualifications or experience that enable them to make valuable contributions to education in New South Wales.

(2) For the purposes of subclause (1), the Minister may require a person or body responsible for nominating a member or members of the Board to furnish a list of so many nominees as the Minister may specify, from which the Minister may select the nominee or nominees to be appointed.

(3) In default by the nominating person or body in complying with the requirement, the Minister may appoint such person or persons as the Minister may think fit.

Representation of certain interests

2. The composition of the Board at any time shall (as far as practicable) be such that—

- (a) at least one member has professional experience or demonstrated interest in the education of girls;
- (b) at least one member has professional experience or demonstrated interest in the education of children of ethnic or Aboriginal communities; and
- (c) at least one member has professional experience or demonstrated interest in primary education.

Age of members

3. A person of or above the age of 70 years is not eligible to be appointed as a member of the Board or to act in the office of a member.

Term of office

4. Subject to this Act, a member of the Board shall hold office for such period (not exceeding 4 years) as may be specified in the instrument of the member's appointment, but is eligible (if otherwise qualified) for re-appointment.

Alternative members

5. (1) The Minister may appoint a person to be an alternative member of the Board.

(2) The alternative member for the Director-General shall be an officer of the Department of Education.

*Education and Public Instruction 1987*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued*

(3) The alternative members for members other than the Director-General shall be appointed by the Minister after consultation with the persons or bodies responsible for nominating those members.

(4) The provisions of this Schedule shall, with any necessary modifications, apply to and in respect of alternative members in the same way as they apply to members.

(5) An alternative member may act in the office of the member for whom he or she is the alternative member during the illness or absence of that member and, while so acting, shall have and may exercise all the functions and entitlements of that member and shall be deemed to be that member.

Remuneration

6. A member of the Board 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.

Filling of vacancy in office of member

7. If the office of any member of the Board becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy for the remainder of that member's term of office.

Casual vacancies

8. (1) A member of the Board shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings;
- (c) 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;
- (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Minister;

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- (g) attains the age of 70 years;
 - (h) is removed from office by the Minister for reasons appearing to the Minister to be sufficient; or
 - (i) being a member (other than a nominee referred to in clause 1 (1) (e)) nominated by a specified person or body, ceases to hold the qualifications or office necessary for his or her membership.
- (2) Without affecting the generality of subclause (1) (h), the Minister may remove from office a member who contravenes the provisions of clause 9.

Disclosure of pecuniary interests

9. (1) A member of the Board who, in terms of any guidelines determined by the Board for the purposes of this clause, has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Board; or
- (b) in a thing being done or about to be done by the Board,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) After a member has disclosed the nature of an interest in any matter or thing, the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing.

(3) Notwithstanding that a member contravenes the provisions of this clause, the contravention does not invalidate any decision of the Board or the exercise of any function under this Act.

Effect of certain other Acts

10. (1) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of an 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,

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

(2) The office of a member of the Board shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

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SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued***Liability of members, etc.**

11. No matter or thing done by the Board, any member or any person acting under the direction of the Board shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

SCHEDULE 3

(Sec. 29 (5))

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD

General procedure

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

Quorum

2. The quorum for a meeting of the Board is 11 members.

Presiding member

3. (1) The Director-General or, in the absence of the Director-General, the person appointed as the alternative member for the Director-General, or in the absence of both, another member elected for the purpose by the members present at a meeting, shall preside at a meeting of the Board.

(2) The presiding member at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

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

Minutes

5. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

Proof of certain matters not required

6. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;
- (b) any resolution of the Board;

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SCHEDULE 3—*continued*PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD—*continued*

- (c) the appointment of, or the holding of any qualifications or office by, any member of the Board; or
- (d) the presence or nature of a quorum at any meeting of the Board.

First meeting of the Board

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