

EXPOSURE DRAFT

EDUCATION REFORM BILL

Released by (Dr.) Terry Metherell M.P.
Minister for Education and Youth Affairs
November 1989

EDUCATION REFORM BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to reform the law relating to the education of school children. The Bill includes the reforms contained in the recent white paper on curriculum reform in New South Wales schools and the major reforms recommended by the Committee of Review of New South Wales Schools (the Carrick Report).

The Bill repeals the Education and Public Instruction Act 1987 and provides a new legislative framework relating to the education of school children.

The Bill:

- (a) sets out the school curriculum for primary and secondary education, including a minimum curriculum for children of compulsory school-age for the purposes of school registration and the curriculum for School Certificate and Higher School Certificate candidates;
- (b) provides for curriculum requirements to be based on the selection of courses from key areas of learning to ensure a more balanced and diverse curriculum;
- (c) provides for a regular testing of students' skills;
- (d) establishes a Board of Studies (to replace the present Board of Secondary Education) with responsibilities for primary as well as secondary school education;
- (e) retains the School Certificate and expressly requires the requisite examination or other assessment to be moderated on a State-wide basis and for results to be recorded using a common scale;
- (f) retains the Higher School Certificate and expressly requires a public examination conducted on a State-wide basis;
- (g) contains provisions for the establishment and operation of government schools and gives parents a wider choice in the selection of schools for their children;

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- (h) requires government as well as non-government schools to be registered by the Minister and requires any such schools presenting candidates for the School or Higher School Certificate to be accredited separately by the Board of Studies;
- (i) provides that government and non-government schools are required to meet the same standards for registration and accreditation;
- (j) enables the formation of systems of schools which will monitor compliance of the schools in the system with the registration and accreditation requirements of the proposed Act;
- (k) enables parents to register their children for home schooling;
- (l) provides for financial assistance in respect of non-government school students to be based on 25% of the assessed cost of educating government school children and the needs of the school concerned;
- (m) provides for assistance in respect of government school children with special needs;
- (n) continues the provisions for the compulsory schooling of children between 6 and 15 years of age; and
- (o) contains other related and ancillary provisions.

PART 1 - PRELIMINARY

Part 1 (cll. 1 - 3) contains provisions relating to the citation and commencement of the proposed Act and defines expressions used in the proposed Act.

PART 2 - OBJECTS OF ACT

Part 2 (cll. 4 - 6) sets out the principal and administrative objects of the proposed Act, including the right of every child to receive an education.

PART 3 - THE SCHOOL CURRICULUM

This Part is divided into 3 Divisions.

Division 1 (cll. 7 and 8) deals with primary education and specifies the 6 key learning areas for primary education. Clause 8 specifies the requirements that the curriculum for primary school children must meet (e.g. courses of study in each of the 6 key learning areas are to be provided). Those requirements constitute the minimum curriculum for registration of primary schools.

Division 2 (cll. 9 - 12) deals with secondary education and specifies the 8 key learning areas for secondary education. Clause 10 specifies the minimum curriculum for registration of secondary schools. Clause 11 specifies the curriculum for School Certificate candidates, which includes courses of study in each of the 8 key learning areas. Clause 12 specifies the curriculum for Higher School Certificate candidates, which includes courses of study in at least 4 key learning areas (including English and at least one Maths/Science/Technology based subject and at least one Humanities based subject). Courses of study in a key learning area are required (in the case of the School Certificate and Higher School Certificate curriculum) to be taught in

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accordance with a syllabus developed or endorsed by the Board of Studies and approved by the Minister.

Division 3 (cll. 13 - 18) deals with general matters in relation to the school curriculum. In particular, clause 13 enables the Minister to determine additional curriculum requirements for government schools, clauses 15 and 16 deal with syllabuses and clause 18 enables the Minister to arrange for basic skills testing in government schools.

PART 4 - THE MINISTER'S FUNCTIONS

Part 4 (cll. 19 - 21) contains provisions relating to the functions of the Minister. Clause 19 specifies the Minister's general functions, including functions in connection with the school curriculum, establishing government schools, registration of schools, the recognised certificates and educational audits and program reviews. Clause 20 authorises the Minister to provide or arrange special or additional assistance for government school children with special needs. Clause 21 provides for financial assistance to non-government school children based on 25% of the assessed cost of educating government school children and the needs of the school concerned.

PART 5 - ATTENDANCE OF CHILDREN AT SCHOOL

Part 5 (cll. 22 - 26) provides for the 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 of the child and a penalty (\$1,000) is provided for a failure to observe this duty. Also, the Minister may require the parent of a child who has not been regularly attending school to attend, with the child, a conciliation conference with an authorised officer. Clause 25 makes it compulsory for registered schools to keep a register of enrolments and attendances and clause 26 allows the Minister to exempt children from attendance at school in appropriate cases.

PART 6 - GOVERNMENT SCHOOLS

Part 6 (cll. 27 - 36) deals with the establishment and operation of government schools. In particular, clauses 27, 28 and 29 empower the Minister to establish, name and close government schools and sets out the kinds of government schools that may be established. Clause 30 provides that education in government schools is to be non-sectarian and clause 31 provides that the instruction provided there is to be free of charge. Clause 32 regulates religious education in government schools and clause 33 provides for the exemption of children from religious education. Clause 34 enables a child to be enrolled at the school of the parent's choice if the school can accommodate the child. Clause 35 gives the Minister power to control and regulate student discipline in government schools. Clause 36 enables the regulations to provide for the establishment and functions of school councils at government schools.

**PART 7 - REGISTRATION OF SCHOOLS AND OF
CHILDREN FOR HOME SCHOOLING**

This Part is divided into 6 Divisions.

Division 1 (cll. 37 - 45) contains provisions relating to the formation of systems of schools with the approval of the Minister. Government schools are to form a single system.

Division 2 (cll. 46 - 53) contains provisions relating to the registration requirements for schools and the determination by the Minister of applications for registration of non-government schools on the advice of the Board of Studies.

Division 3 (cll. 54 - 63) contains provisions relating to continuing registration. In particular, clause 54 provides for school inspections by Board inspectors, clause 55 requires the Board to recommend to the Minister whether or not a registration should be renewed and clause 59 enables the Minister, on the Board's recommendation, to cancel the registration of a school.

Division 4 (cll. 64 - 69) contains general provisions in relation to registration. In particular, clause 65 prohibits a person from conducting an unregistered school and clause 69 requires a school to furnish returns about the requirements for registration.

Division 5 (cll. 70 - 74) enables a parent of a child to apply to the Minister for registration of the child for home schooling (i.e. schooling in the child's home). The child is required to receive instruction which meets the relevant requirements of Part 3 relating to minimum curriculum for the registration of schools.

Division 6 (cll. 75 - 83) contains provisions relating to conscientious objections to registration. In particular, clause 78 enables the Minister to issue a certificate of exemption to a school from the requirement to be registered under the proposed Act and to a parent from the requirement to have a child registered for home schooling.

PART 8 - CERTIFICATES OF STUDY

This Part is divided into 2 Divisions.

Division 1 (cll. 84 - 92) deals with accreditation of government and non-government schools for the purposes of presenting candidates for the School and Higher School Certificates. Accreditation is to be granted by the Board or, in the case of a dispute, by the Minister.

Division 2 (cll. 93 - 97) contains provisions relating to the School Certificate and the Higher School Certificate. In particular, clauses 93 and 94 set out the requirements for the certificates (including a State-wide moderator for the School Certificate and a State-wide public examination for the Higher School Certificate) and provide for the granting of the certificates by the Board, clause 95 makes provision for candidates affected by illness or misadventure, clause 96 requires the Board to reconsider certain of its decisions on the request of the persons affected by them and clause 97 requires the Board to issue a record of achievement to certain students in Years 10, 11 and 12.

PART 9 - THE BOARD OF STUDIES

Part 9 (ccl. 98 - 105) constitutes the Board of Studies and provides that it is to consist of 15 members (4 ex-officio and 11 appointed by the Minister). Of the appointed members, 7 are to be persons nominated by various bodies which represent certain interests. One of the ex-officio members is to be the President of the Board. Clause 101 specifies the functions of the Board, which include providing advice and making recommendations to the Minister about the registration of schools, developing or endorsing syllabuses, preparing curriculum support material, determining courses of study and granting the recognised certificates. Other provisions are as follows:

- * clause 102 which enables the Board to appoint committees to assist the Board in its functions
- * clause 103 which provides that Board inspectors and other staff are to be employed under the Public Sector Management Act 1988
- * clause 104 which enables the Board to employ casual staff for certain purposes (such as marking examinations)
- * clause 105 which requires the Board to report to the Minister on its activities.

PART 10 - SCHOOLS APPEALS TRIBUNAL

Part 10 (ccl. 106 - 112) provides for a Schools Appeals Tribunal before which appeals may be brought against certain decisions and recommendations of the Board and others concerning registration and accreditation of schools etc.

The Part also deals with the manner for making an appeal and requires the Tribunal to state its reasons for making a decision in respect of an appeal.

PART 11 - PARENTS AND CITIZENS AND KINDRED ASSOCIATIONS

Part 11 (ccl. 113 - 115) provides for the constitution of parents and citizens and kindred associations and district councils, specifies the objects and functions of the associations and councils and enables the associations and councils to make rules (to be approved by the Minister) for the conduct of their business and affairs.

PART 12 - MISCELLANEOUS

Part 12 (ccl. 116 - 133) contains miscellaneous provisions, including provisions relating to the public inspection of registers kept under the proposed Act, delegations by the Minister, liability of members of the Board, evidentiary matters, proceedings for offences and regulation-making powers. Other provisions include:

- * clause 120 enables authorised attendance officers to investigate the case of any child apparently of school age who is not at school
- * clause 123 provides for the acquisition of land by the Minister for educational and certain other purposes and enables the disposal of land

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- * clause 126 provides for the establishment of scholarships attached to government schools
- * clause 130 amends the Children (Care and Protection) Act 1987 to enable care applications and orders to be made under that Act concerning children who fail (not through any parental default or neglect) to attend school regularly
- * clause 132 repeals the Education and Public Instruction Act 1987 and certain other legislation.

SCHEDULES

Schedule 1 contains provisions relating to the members and procedure of the Board of Studies.

Schedule 2 contains provisions relating to the members and procedure of the Schools Appeals Tribunal.

Schedule 3 contains savings, transitional and other provisions. In particular, the Board of Secondary Education constituted under the Education and Public Instruction Act 1987 is dissolved.

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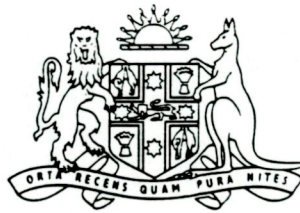
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EDUCATION REFORM BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

**An Act to amend the law relating to the education of school children;
to repeal the Education and Public Instruction Act 1987; and for other
purposes.**

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Education Reform Act 1989.

Commencement

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

Definitions

3. (1) In this Act:

"**Board**" means the Board of Studies constituted by this Act;

"**compulsory school-age**" means any age of or above 6 years and below 15 years;

"**government school**" means a school established under this Act by the Minister and for the time being registered under Part 7;

"**non-government school**" means a registered school other than a government school;

"**parent**" includes guardian or other person having the custody or care of a child;

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

"**principal**" includes an acting principal of a school;

"**proprietor**", in relation to a registered school (other than a government school), means the person designated, in the school's certificate of registration, as the proprietor of the school;

"**recognised certificate**" means a School Certificate or Higher School Certificate granted under Part 8;

"**registered school**" means a school for the time being registered under Part 7;

"**system of schools**" means a system of schools for the time being approved by the Minister under Part 7;

"Tribunal" means the Schools Appeals Tribunal constituted by this Act.

(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 - OBJECTS OF ACT

Right of child to education

4. In enacting this Act, Parliament has had regard to the following principles:

- (a) every child has the right to receive an education;
- (b) the education of a child is primarily the responsibility of the child's parents;
- (c) it is the duty of the State to ensure that every child has access to or receives an education of an adequate standard.

Principal objects of this Act

5. The principal objects of this Act are as follows:

- (a) to set out the school curriculum, including the minimum curriculum for school registration and the curriculum for School Certificate and Higher School Certificate candidates;
- (b) to provide for the establishment and operation of government schools;
- (c) to ensure that only government or non-government schools registered under this Act operate in New South Wales;
- (d) to allow children to be educated at home;
- (e) to provide for the grant of School Certificates and Higher School Certificates and for the accreditation of schools that are competent to present candidates for those certificates.

Administrative objects of this Act

6. (1) It is the intention of Parliament that every person, in the administration of this Act or of education for children of school-age in

New South Wales, is (as far as is practicable or appropriate) to have regard to the following objects:

- (a) assisting each child to achieve his or her educational potential;
- (b) promotion of a high standard of education in government schools which is provided free of charge for instruction and without discrimination on the ground of race or religion;
- (c) encouraging innovation and diversity within and among schools;
- (d) provision of an education for children that gives them access to opportunities for further study, work or training;
- (e) mitigating educational disadvantages arising from geographic, economic, social, cultural, lingual or other causes;
- (f) provision of an education for Aboriginal children that has regard to their special needs;
- (g) development of an understanding of Aboriginal history and culture by all children;
- (h) recognition of the special problems of rural communities, particularly small and isolated communities;
- (i) provision of opportunities to children with special abilities;
- (j) provision of special educational assistance to children with disabilities;
- (k) development of a teaching staff that is skilled, dedicated and professional;
- (l) provision of opportunities for parents to participate in the education of their children;
- (m) provision of an education for children that promotes family and community values.

(2) This section does not limit the operation of any other provision of this Act.

PART 3 - THE SCHOOL CURRICULUM

Division 1 - Primary education

Key learning areas for primary education

7. For the purposes of this Act, each of the following is a key learning area for primary education:

- (a) English;
- (b) Mathematics;
- (c) Science and Technology;
- (d) Human Society and its Environment;
- (e) Creative and Practical Arts;
- (f) Personal Development, Health and Physical Education.

Minimum curriculum for primary education

8. (1) The curriculum for primary school children during Kindergarten to Year 6 must meet the following requirements:

- (a) courses of study in each of the 6 key learning areas for primary education are to be provided for each child during each Year;
- (b) courses of study relating to Australia are to be included in the key learning area of Human Society and its Environment;
- (c) courses of study in both Art and Music are to be included in the key learning area of Creative and Practical Arts;
- (d) courses of study in a key learning area are to be appropriate having regard to the stage of development and potential of the children concerned;
- (e) courses of study in a key learning area are to be provided in accordance with any relevant guidelines developed by the Board and approved by the Minister;
- (f) courses of study in a key learning area may (but need not) be taught in accordance with a syllabus developed or endorsed by the Board and approved by the Minister.

(2) The requirements of this section constitute the minimum curriculum for the registration of schools providing primary education.

Division 2 - Secondary education

Key learning areas for secondary education

9. For the purposes of this Act, each of the following is a key learning area for secondary education:

- (a) English;
- (b) Mathematics;
- (c) Science;
- (d) Human Society and its Environment;

- (e) Modern and Classical Languages;
- (f) Technological and Applied Studies;
- (g) Creative Arts;
- (h) Personal Development, Health and Physical Education.

Minimum curriculum for secondary education (Years 7 to 10)

10. (1) The curriculum for secondary school children during Year 7 to Year 10 (not being children who are candidates for the School Certificate) must meet the following requirements:

- (a) courses of study in 6 out of the 8 key learning areas for secondary education are to be provided for each child;
- (b) courses of study in the key learning areas of English, Mathematics, Science and Human Society and its Environment are to be provided during each Year, but the courses of study in the other key learning areas need not be provided during each Year;
- (c) courses of study in a key learning area are to be appropriate having regard to the stage of development and potential of the children concerned;
- (d) courses of study in a key learning area are to be provided in accordance with any relevant guidelines developed by the Board and approved by the Minister;
- (e) courses of study in a key learning area may (but need not) be taught in accordance with a syllabus developed or endorsed by the Board and approved by the Minister.

(2) The requirements of this section constitute the minimum curriculum for the registration of schools providing secondary education for children during Year 7 to Year 10 who are not candidates for the School Certificate.

Curriculum for School Certificate candidates

11. (1) The curriculum for secondary school children during Year 7 to Year 10 (being children who are candidates for the School Certificate) must meet the following requirements:

- (a) courses of study in each of the 8 key learning areas for secondary education are to be provided for each child;
- (b) courses of study in the key learning areas of English, Mathematics, Science and Human Society and its Environment

are to be provided during each Year, but the courses of study in the other key learning areas need not be provided during each Year;

- (c) courses of study in a key learning area are to be taught in accordance with a syllabus developed or endorsed by the Board and approved by the Minister.

(2) During the period before 1996 the Minister may modify the requirement for courses of study to be provided in each of the 8 key learning areas, so long as courses of study are provided in at least 6 of those areas.

Curriculum for Higher School Certificate candidates

12. The curriculum for secondary school students during Year 11 and Year 12 (being students who are candidates for the Higher School Certificate) must meet the following requirements:

- (a) courses of study are to be provided for each student during each Year in at least 4 key learning areas for secondary education, including:
 - (i) in the key learning area of English; and
 - (ii) in at least one of the key learning areas of Mathematics, Science or Technological and Applied Studies; and
 - (iii) in at least one of the key learning areas of Human Society and its Environment, Modern and Classical Languages or Creative Arts;
- (b) courses of study in a key learning area are to be taught in accordance with a syllabus developed or endorsed by the Board and approved by the Minister.

Division 3 - General

Additional curriculum requirements for government schools

13. (1) The Minister may determine additional curriculum requirements for children attending government schools.

(2) Any such additional requirement does not constitute part of the minimum curriculum for registration of schools nor an additional requirement for being a candidate for the School Certificate or Higher School Certificate.

Courses of study

14. For the purposes of this Part, the different courses of study in a key learning area are to be courses determined by the Board with the approval of the Minister.

Syllabuses

15. (1) The Board may, for the purposes of this Part, develop syllabuses for courses of study or endorse syllabuses developed by schools or other educational bodies.

(2) The Minister is required to approve each particular syllabus developed by the Board, but may give a general approval for syllabuses endorsed by the Board.

(3) Any syllabus developed or endorsed by the Board for a particular course of study is to indicate the knowledge, skills, understanding and attitudes that children of different abilities should acquire by the end of specified stages in the course, and any practical experience that children should acquire by the end of any such stage.

(4) Any syllabus developed or endorsed by the Board for a particular course of study may indicate generally the period of time that should be allocated to the teaching of the course, but is not to make a specific period of time mandatory.

Syllabus development - disagreement between Minister and the Board

16. If the Minister does not approve a syllabus for a course of study prepared by the Board, the Board may request the Minister (and if so the Minister is required) to make public as soon as practicable the Minister's decision not to approve the syllabus and the reasons for the decision.

Additional courses of study

17. Courses of study may be provided to children in any Year in addition to the courses required for any minimum or other curriculum under this Part.

Basic skills testing

18. (1) In this section:

"**basic skills testing**" means a test of the basic skills of children (such as literacy and numeracy), but does not include a test relating to the teaching of a particular course of study.

(2) The Minister is to arrange for the conduct of basic skills testing in such government schools and at such times as the Minister may determine.

(3) The Minister may, at the request of a non-government school, arrange for the conduct of basic skills testing in the school.

PART 4 - THE MINISTER'S FUNCTIONS

General functions of Minister

19. The Minister has the following functions:

- (a) to exercise the functions in connection with the school curriculum as are conferred by Part 3;
- (b) to establish and supervise the operation of government schools under Part 6;
- (c) to register and supervise the registration of government and non-government schools, and the registration of children for home schooling, under Part 7;
- (d) to determine, having regard to the requirements of Part 8 and the advice of the Board, the general method of assessment of candidates for the recognised certificates (whether by public examination or other form of assessment);
- (e) to determine, having regard to the requirements of Part 8 and the advice of the Board, the nature of the information appearing on the recognised certificates or records of achievement issued by the Board;
- (f) to carry out such educational audits and program reviews as the Minister considers appropriate to assess and improve the quality of education for school children in New South Wales;

- (g) any other function conferred by or under this Act.

Assistance to government school children with special needs

20. (1) The Minister may provide or arrange special or additional assistance for government school children with special needs, such as:

- (a) children with disabilities; or
- (b) children who live in isolated or remote areas; or
- (c) children who are from non-English speaking backgrounds; or
- (d) Aboriginal children.

(2) Any such special or additional assistance may include the provision of financial assistance, facilities, courses of study, staff, staff training or correspondence schools.

Financial assistance to non-government school children

21. (1) The Minister may provide financial assistance out of money to be provided by Parliament in respect of non-government school children.

(2) Any such financial assistance is to be made by way of per capita grants of 25 per cent of the cost of educating a child at a government school (as assessed by the Minister) and is to be made having regard to the needs of the non-government school concerned.

PART 5 - ATTENDANCE OF CHILDREN AT SCHOOL

Compulsory schooling

22. It is the duty of the parent 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 registered school and to attend the school at all times when the school is open for the child's instruction or participation in school activities; or
- (b) to be registered for home schooling under Division 5 of Part 7 and to receive instruction in accordance with the conditions to which the registration is subject.

Offence to fail to send child to school

23. (1) The parent of a child of or above the age of 6 and below the age of 15 is guilty of an offence if the parent:

- (a) neglects or fails to cause the child to be enrolled at a registered school or to be registered for home schooling; or
- (b) neglects or fails to cause the child to attend any such school at all times when the school is open for the child's instruction or participation in school activities or to receive instruction in accordance with the conditions to which the child's registration for home schooling is subject.

Maximum penalty: 10 penalty units.

(2) 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; or
- (b) the child has been suspended or expelled from a government school or cannot gain admission to any government school within the State; or
- (c) a certificate under section 26 has been granted in respect of the child and any conditions to which the certificate is subject are complied with; or
- (d) the child is participating in a program established by the Minister as referred to in section 35.

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

- (a) the child is enrolled at a correspondence school or other similar institution that is conducted by a government or other authority (whether or not of New South Wales) approved by the Minister and satisfies the requirements (if any) prescribed with respect to performance of school work; or
- (b) the child was prevented from attending school or receiving instruction by:
 - (i) sickness, risk of infection or temporary or permanent incapacity; or
 - (ii) some accident or unforeseen event, and within 7 days of the occurrence of that sickness, risk or incapacity, or of that accident or unforeseen event, the defendant gave notice of it to the child's teacher; or
- (c) at all material times the child attended a school which the defendant reasonably believed to be a registered school; or

- (d) the child has not been absent for more than a total of 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 because of the child's disobedience, and was not due to any neglect or default of the defendant.

(4) A notice of the kind referred to in subsection (3) (b), or a record of its particulars, is to be kept by the principal of the school and is to form part of the register referred to in section 25.

Conferences may be arranged if child not attending school

24. If a child who is enrolled at a registered school has not been attending school regularly, the Minister may require the parent of the child to attend, together with the child, a conciliation conference with an officer authorised by the Minister.

Register of enrolments and attendances

25. (1) The principal of a registered school must 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 must be available for inspection during school hours by a Board inspector or other person authorised by the Minister, who may require the principal of the school to furnish a copy of the register or any part of it.

(3) When required to do so by the Minister, the principal of a registered school must 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 must be retained for such period as the Minister may determine.

(5) A principal of a registered school who, without reasonable excuse, neglects or fails to comply with a requirement imposed by or under this section is guilty of an offence.

Maximum penalty: 5 penalty units.

Certificate of exemption

26. (1) The Minister may grant a certificate exempting a child from the requirement of this Part that the child be enrolled at and attend a registered school or be registered for and receive home schooling, if the Minister is satisfied 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 6 - GOVERNMENT SCHOOLS

Establishment of government schools

27. (1) The Minister may establish a school in any locality if the Minister is satisfied that:

- (a) sufficient children will regularly attend the school; and
- (b) the school will comply with the requirements for the registration of schools under Part 7.

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

Closure of government schools

28. (1) The Minister may close a government school if the Minister has first caused the parents of children attending the school to be informed of the proposal to close it and has considered any representations made by them in relation to the proposal.

(2) The Minister must close a government school that has ceased to be registered under Part 7.

(3) Notice of the Minister's decision to close a school is to be published in the Gazette.

Kinds of government school

29. (1) The kinds of school that may be established by the Minister include the following:

- (a) primary schools;
- (b) secondary schools;
- (c) composite schools, in which both primary education and secondary education are offered;
- (d) schools in which education for specific age groups is offered;
- (e) schools for children with disabilities;
- (f) schools with boarding facilities.

(2) Secondary schools that may be established by the Minister include (in addition to comprehensive secondary schools) the following:

- (a) senior secondary schools that offer courses of study only for students in Years 11 and 12;
- (b) selective secondary schools for children with special abilities;
- (c) specialist secondary schools, such as agricultural or technology high schools;
- (d) separate boys' and girls' schools.

Secular instruction

30. In government schools, the teaching is to consist of strictly non-sectarian and secular instruction. The words "secular instruction" are to be taken to include general religious teaching as distinct from dogmatic or polemical theology.

Instruction to be free

31. The instruction provided in government schools is to be free of charge.

Special religious education

32. (1) In every government school, time is to be allowed for the religious education of children of any religious persuasion, but the total number of hours so allowed in a year is not to exceed, for each child, the number of school weeks in the year.

(2) The religious education to be given to children of any religious persuasion is to 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 education to be given is in every case to be the religious education authorised by the religious body to which the member of the clergy or other religious teacher belongs.

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

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

(6) If the religious instructor fails to attend the school at the appointed time, the children are to be appropriately cared for at the school during the period set aside for religious education.

Objection to religious education

33. No child at a government school is to be required to receive any general religious teaching or special religious education if the parent of the child objects to the child's receiving that teaching or education.

Admission to government schools

34. (1) The parent of a child may enrol the child at any government school if the school can accommodate the child.

(2) If a child cannot be accommodated at that school, the child is entitled to be admitted to such government school near the child's home as is designated by the Minister.

(3) The Minister may refuse the admission of a child to any government school if:

- (a) the child has been expelled from any government school; or
- (b) the Minister is of the opinion that there is other sufficient reason to refuse the admission of the child to a government school.

(4) A child is not to be refused admission to a government school because of the child's race or religion.

Discipline in government schools

35. (1) The Minister may control and regulate student discipline in government schools.

(2) The Minister may prepare guidelines for the adoption by government schools of fair discipline codes that provide for the control and regulation of student discipline in those schools (except for the suspension or expulsion of students).

(3) The Director-General of Education or an officer authorised by that Director-General (but not the Minister) may suspend or expel a child of any age from a government school.

(4) The Minister may establish programs to assist any child who has a history of non-attendance at a government school or who has been expelled from a government school to adjust more successfully to school life or to improve his or her behaviour so as to be able to return to school.

(5) The Director-General of Education may, with the consent of the child's parent, arrange for a child who has been expelled from a government school to be admitted to and attend another government school or to participate in a program referred to in subsection (4).

School councils

36. (1) The regulations may provide for the establishment of school councils at government schools.

(2) A school council is to be constituted in such manner, and has such functions, as are prescribed by the regulations.

PART 7 - REGISTRATION OF SCHOOLS AND OF CHILDREN FOR HOME SCHOOLING

Division 1 - Formation of systems of schools

Registration as an individual school or as a member of a system

37. A school may become a registered school by:

- (a) being registered as an individual school; or
- (b) being registered as a member of a system of schools that monitors the school's compliance with the requirements of this Act.

Non-government schools may form a system

38. The proprietor or proprietors of 5 or more registered non-government schools, or the person or persons who propose to

establish 5 or more new non-government schools, may propose that the schools form a system of schools for the purposes of this Part and Part 8.

Government schools form a system

39. All government schools (whenever established) form a system of schools for the purposes of this Act.

Approved authority for system of schools

40. For the purposes of this Act, the approved authority for a system of schools is:

- (a) the person or body who or which is appointed for the time being by the proprietor or proprietors of the schools, or the person or persons who propose to establish the schools, to act on their behalf in relation to the system or proposed system; or
- (b) in the case of the system of government schools, the Director-General of Education.

Applications for approval of systems of non-government schools

41. (1) The approved authority for a proposed system of non-government schools may apply in writing to the Minister for approval of the system.

(2) Any such application must:

- (a) specify the schools within the system; and
- (b) include appropriate evidence that the applicant is the approved authority for the system; and
- (c) include a description of the manner in which it is proposed to monitor compliance with the requirements for registration of the schools under this Part and (if appropriate) for accreditation of the schools under Part 8.

Approval of system of non-government schools

42. (1) As soon as practicable after receiving an application for approval of a proposed system of non-government schools, the Minister is:

- (a) to approve the system; or
- (b) to refuse to approve the system.

(2) The Minister is to approve the system if the Minister is satisfied that the manner in which it is proposed to monitor compliance with the requirements for registration of the schools and (if appropriate) for accreditation of the schools is adequate.

(3) The Minister is to notify the approved authority for the system of the Minister's decision.

(4) Unless the approved authority for a system of schools makes an application for registration of the schools (including those schools already registered under this Act) within 6 months of the Minister's approval of the system, that approval lapses.

Inclusion of new schools in a system of non-government schools

43. (1) The approved authority for a system of non-government schools may notify the Minister in writing that a proprietor of a registered school or a person who proposes to establish a new school wishes to become a member of the system.

(2) The school becomes a member of the system on the giving of that notice.

(3) Unless application is made to register the school (whether or not already registered under this Act) within 6 months of its becoming a member of the system, the school ceases to be such a member.

Withdrawal of non-government school from system

44. (1) The approved authority for a system of non-government schools may notify the Minister in writing that a school that is a member of the system is to be withdrawn from the system.

(2) The school ceases to be a member of the system on the giving of that notice.

(3) The Minister may, at the request of the proprietor of a non-government school and after consultation with the approved authority for the system, agree to the school's withdrawal from a system of non-government schools.

(4) The withdrawal of a school from a system does not affect the registration of the school.

Withdrawal of approval of system of non-government schools

45. (1) The Minister may, at the request of the approved authority for the system or without any such request, withdraw the approval of a system of non-government schools at any time.

(2) The withdrawal of that approval does not affect the registration of the schools that were members of the system.

Division 2 - Registration of schools

Registration requirements for schools

46. For the purposes of this Act, the requirements for the registration of a school are as follows:

- (a) compliance with the requirements set out in Part 3 relating to the minimum curriculum for registration of the school;
- (b) the provision of educational facilities that are adequate for the courses of study provided at the school;
- (c) the provision of courses of study that are appropriate for the students at the school;
- (d) school premises and buildings that are satisfactory.

Existing government and non-government schools

47. (1) Any State school (within the meaning of the Education and Public Instruction Act 1987) in existence immediately before the commencement of this section is to be taken to be a government school and to have been registered under this Act for a period of 2 years from the date of that commencement.

(2) Any registered school (within the meaning of the Education and Public Instruction Act 1987) in existence immediately before the commencement of this section is to be taken to be a non-government school and to have been registered under this Act for the balance of the current registration under that Act.

Initial registration of government schools

48. When the Minister establishes a government school the Minister is to register the school in the Register kept by the Minister for the purpose and issue the Director-General of Education with a certificate of registration for the school.

Application for registration of a non-government school

49. (1) A person who proposes to establish a new non-government school (other than a school that is a member of a system of schools) may apply in writing to the Minister for registration of the school.

(2) The approved authority for a system of non-government schools may apply in writing to the Minister for registration of a school (including a school that is yet to be established) that is or is to be a member of the system.

(3) The approved authority for a system of non-government schools is (as far as is practicable) to apply at the same time for the registration of all the schools that are members of the system when the Minister first approves the system.

(4) An application for registration of a non-government school is to be lodged with the Board.

Consideration of application for registration of non-government schools by the Board

50. (1) As soon as practicable (but not later than 6 months) after an application for registration of a non-government school has been lodged, the Board is to provide the Minister with a written report about the application.

(2) The written report to the Minister is to include a recommendation as to whether or not the school should be registered.

(3) The Board is to give an applicant for registration written notice of a recommendation to the Minister that the application be refused.

Determination of applications for registration of non-government schools by Minister

51. (1) As soon as practicable after receiving the report of the Board about an application for registration of a non-government school, the Minister:

- (a) is to register the school in the Register kept by the Minister for the purpose and issue to the applicant a certificate of registration for the school; or

(b) is to refuse to register the school.

(2) The Minister is to register the school if the Minister, having considered the Board's report and any decision of the Schools Appeals Tribunal, is satisfied that:

(a) the requirements for registration will be complied with at the school; and

(b) in the case of a first application made to register schools in a system, the manner in which compliance with those requirements is being monitored at any of the existing schools is adequate.

(3) If the Board has recommended that a school not be registered, the Minister may not refuse to register the school unless:

(a) 30 days have elapsed since the applicant was given written notice of the Board's recommendation and no appeal has been made to the Schools Appeals Tribunal against the recommendation within those 30 days; or

(b) the Schools Appeals Tribunal has decided an appeal (made within those 30 days) against the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it; or

(c) any such appeal against the recommendation has been withdrawn.

(4) The Minister is to give an applicant written notice of a decision to refuse to register a school.

Classes of registration

52. (1) The certificate of registration for a government or non-government school may certify the school as efficient:

(a) for primary education for any specified Years; or

(b) for secondary education for any specified Years; or

(c) for education of a kind, or for kinds of children, prescribed by the regulations.

(2) A school may be certified as efficient for education for any specified Year even though it is not proposed to offer education for that Year in the immediate future.

Initial registration for 2 years

53. (1) The initial registration of a government or non-government school has effect for the period specified in the certificate of registration for the school commencing on a date so specified.

(2) The maximum period for which initial registration may be granted is 2 years.

(3) This section:

- (a) applies to the registration of a school that, by becoming a member of a system of schools, is required to be re-registered under this Act (despite being already so registered when it becomes a member); and
- (b) does not apply to the first renewal of registration of a school after the commencement of section 47.

Division 3 - Continuing registration

Inspection of schools

54. The Board may arrange for registered schools to be inspected by a Board inspector at random or following a complaint to assess whether the requirements for registration are being complied with at the schools.

Board to make recommendation about renewal of registration

55. (1) Within a reasonable time before the registration of a school is to expire, the Board is to make a written recommendation to the Minister as to whether or not the registration should be renewed.

(2) Before making a recommendation, the Board, if it is not satisfied that the requirements for registration are being complied with at the school, may send a notice to the proprietor or principal of the school or, in the case of a school that is a member of a system of schools, the approved authority for the system.

(3) The notice:

- (a) is to state that renewal of registration of the school will not be recommended until the matters specified in the notice have been addressed; and

(b) may specify the time within which any such matters should be addressed.

(4) The Minister, on the advice of the Board, may, by a notice sent to the proprietor or principal of the school or the approved authority for the system, extend the period for which the school's registration was granted or last renewed, in order to enable the improvements to be made.

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

(6) The Board is to give the proprietor or principal of a school or the approved authority for a system of schools (as the case may require) written notice of a recommendation to the Minister that the registration of the school not be renewed.

Renewal of registration by Minister

56. (1) The Minister is to renew the registration of a school if the Minister, having considered the recommendation of the Board and any decision of the Schools Appeals Tribunal on an appeal against the Board's recommendation, is satisfied that the requirements for registration are being complied with at the school.

(2) Renewal of registration of a school is effected by the issue of a further certificate of registration for the school.

(3) The Minister may not refuse to renew the registration of a school unless the Minister has considered a recommendation of the Board concerning the matter.

(4) If the Board has recommended that the Minister not renew the registration of a school, the Minister may not act in accordance with that recommendation unless:

- (a) 30 days have elapsed since the proprietor or principal of the school or the approved authority for the system was given written notice of the Board's recommendation and no appeal has been lodged to the Schools Appeals Tribunal against the recommendation within those 30 days; or
- (b) the Schools Appeals Tribunal has decided an appeal (made within those 30 days) against the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it; or
- (c) any such appeal against the recommendation has been withdrawn.

(5) If the Minister decides not to renew the registration of a school, the Minister is to give notice of the decision to the proprietor or principal of the school or, in the case of a school that is a member of a system of schools, to the approved authority for the system.

Duration of renewal of registration

57. (1) The renewal of registration of a school has effect for the period specified in the further certificate of registration.

(2) The maximum period for which registration may be renewed is 6 years.

Common registration cycles for schools in a system

58. The Minister may register or renew the registration of schools in a system so that their registration expires on the same date.

Cancellation of registration

59. (1) The Minister may, on the recommendation of the Board, cancel the registration of a school by notice to the proprietor or principal of the school or, in the case of a school that is a member of a system of schools, by notice to the approved authority for the system.

(2) The Minister may not do so unless the Minister is satisfied that the requirements for registration are not being complied with at the school.

(3) The Minister may not cancel the registration of a school under this section unless notice of the Board's recommendation has been given to the proprietor or principal of the school or, in the case of a school that is a member of a system of schools, to the approved authority for the system and:

- (a) 30 days have elapsed since the giving of that notice during which time no appeal has been made to the Schools Appeals Tribunal against the Board's recommendation; or
- (b) the Schools Appeals Tribunal has decided an appeal (made within those 30 days) against the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it; or
- (c) any such appeal against the recommendation has been withdrawn.

Notice to be given of relocation of school

60. (1) If a registered non-government school or part of such a school is proposed to be moved to new premises, notice is to be given to the Minister at least 3 months before the relocation.

(2) If notice of the relocation is not so given, the proprietor and principal of the school are each guilty of an offence.

Maximum penalty: 5 penalty units.

(3) If a registered school or part of a registered school is relocated, the school's registration continues (subject to this Part).

(4) A reference in this section and section 61 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.

Cancellation of registration of relocated schools

61. (1) The Minister may, on the recommendation of the Board, cancel the registration of a school that has been relocated or partially relocated by notice to the proprietor or principal of the school or, in the case of a school that is a member of a system of schools, by notice to the approved authority for the system.

(2) The Minister may do so only if the Minister is not satisfied that the requirements for registration (relating to the premises, buildings and facilities of the school) will be complied with at the school.

(3) The registration of a school may not be cancelled under this section after the school has been relocated or partially relocated for more than 12 months.

(4) The Minister may not cancel the registration of a school under this section unless notice of the Board's recommendation has been given to the proprietor or principal of the school or, in the case of a school that is a member of a system of schools, to the approved authority for the system and:

- (a) 30 days have elapsed since the giving of that notice during which time no appeal has been made to the Schools Appeals Tribunal against the Board's recommendation; or

- (b) the Tribunal has decided an appeal (made within those 30 days) against the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it; or
- (c) any such appeal against the recommendation has been withdrawn.

(5) Subsection (1) does not allow the Minister to cancel the registration of a school under this section the whole or part of which has been relocated because:

- (a) the school has been damaged; or
 - (b) access to the school or part of the school has been cut off,
- by any event that was neither contemplated nor reasonably foreseeable by the proprietor or principal of the school.

Sale of schools

62. (1) If a registered non-government school is sold, notice of the sale is to be given by the purchaser to the Minister within 7 days after completion of the sale.

Maximum penalty: 5 penalty units.

(2) The unexpired portion of the school's current period of registration, if greater than 6 months, is to be taken, for the purposes of this Act, to be 6 months only or such longer period (not exceeding the unexpired portion) as the Minister determines from the date of completion of the sale.

Changes in circumstances of operation of schools

63. (1) If a registered school undergoes, or is to undergo, any change of a prescribed kind in the circumstances of its operation, notice of that change must be given in accordance with the regulations by the proprietor or principal of the school or, in the case of a school that is a member of a system of schools, the approved authority for the system.

Maximum penalty: 5 penalty units.

(2) 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:

- (a) ceases; or
- (b) is limited to a period specified in the regulations.

Division 4 - General

Registration etc. of part of school

64. (1) A reference in this Act to the registration, the renewal of registration or the cancellation of registration of a school includes a reference to the registration, the renewal of registration or the cancellation of registration of part of a school.

(2) Registration of part of a school is registration of a school as efficient only for education:

- (a) for specified Years; or
- (b) for education of a kind, or for kinds of children, prescribed by the regulations.

Conducting unregistered schools

65. (1) A person must not conduct or knowingly permit or assist in the conduct of a school for the education of children of compulsory school age unless the school is registered under this Part.

(2) A person must not conduct or knowingly permit or assist in the conduct of a school for:

- (a) the education of primary school children of any age; or
- (b) the education of secondary school children of any age; or
- (c) education of a kind, or for children of a kind, prescribed by the regulations,

unless the school is registered as efficient for the education of those children or education of that kind.

(3) A person who conducts a school for the education of children of compulsory school age, being a school that is not or ceases to be registered under this Part, must, as soon as practicable, notify the parents of those children in writing that the school is not registered.

(4) A 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.

Maximum penalty: 5 penalty units.

Certificate of registration to be displayed

66. (1) The current certificate of registration of a school is to 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 of the school is guilty of an offence.

Maximum penalty: 5 penalty units.

Proposal to offer education of a different kind

67. A proposal that a registered school offer education different from that for which the school is, by its current certificate of registration, registered as efficient, is to be dealt with as if it were a proposal to establish a new school.

Proposal to re-establish school

68. A proposal to re-establish a school:

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

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

Returns by schools

69. The approved authority for a system of schools, or the proprietor or principal of a registered school that is not a member of a system of schools, is to provide returns to the Board concerning the requirements for registration in relation to the school in a form approved by the Board for the purpose.

Maximum penalty: 5 penalty units.

Division 5 - Registration for home schooling

Definitions of "authorised person" and "home schooling"

70. In this Division:

"authorised person" means a Board inspector, or any other person, authorised in writing by the Minister to exercise the functions of an authorised person for the purposes of the provision in this Division in which the expression occurs;

"home schooling" means schooling in the child's home.

Application for registration for home schooling

71. (1) A parent of a child may apply in writing to the Minister for registration of the child for home schooling.

(2) As soon as practicable after such an application is made, the Minister is to obtain advice on the application from an authorised person.

(3) The authorised person is to notify the applicant in writing of a recommendation to the Minister that the application be refused.

Registration for home schooling

72. (1) As soon as practicable after receiving the recommendation of an authorised person about an application for registration of a child for home schooling, the Minister:

- (a) is to register the child in a Register kept by the Minister for the purpose; or
- (b) is to refuse to register the child.

(2) The Minister is to register the child if the Minister, having regard to:

- (a) the recommendation of the authorised person about the application; and
- (b) any decision of the Schools Appeals Tribunal on an appeal against the authorised person's recommendation,

is satisfied that the conditions subject to which registration is required to be given will be complied with.

(3) The Minister may register more than one child of any one parent for home schooling.

(4) If the authorised person recommends that the Minister refuse to register a child for home schooling, the Minister may not do so unless:

- (a) 30 days have elapsed since the applicant was given written notice of the authorised person's recommendation and no appeal has been made to the Schools Appeals Tribunal against the recommendation within those 30 days; or
- (b) the Schools Appeals Tribunal has decided an appeal (made within those 30 days) against the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it; or
- (c) any such appeal against the recommendation has been withdrawn.

(5) The Minister is to notify the applicant for registration of a child for home schooling of the Minister's decision to refuse to register the child.

(6) On registration of a child for home schooling, a certificate of registration is to be issued for the child to the applicant for registration.

Conditions and duration of registration

73. (1) The registration of a child for home schooling is subject to the conditions specified in the certificate of registration.

(2) The conditions so specified:

- (a) must comply with the requirements of the regulations; and
- (b) subject to any such regulations, must provide for the child to receive instruction that meets the relevant requirements of Part 3 relating to minimum curriculum for the registration of schools.

(3) Registration of a child for home schooling is to be limited in its operation to a period (not exceeding 2 years) specified in the certificate of registration.

Home schooling - cancellation of registration

74. (1) The Minister may, on the recommendation of an authorised person, cancel the registration of a child for home schooling by notice in writing to a parent of the child, if the parent:

- (a) has failed to ensure that the child receives instruction in accordance with the conditions to which the registration is subject; or
 - (b) has refused or failed to allow an authorised person (in accordance with those conditions) to enter, at any reasonable time, the premises where the child receives schooling or to inspect those premises or records required to be kept for the purposes of this Act; or
 - (c) has breached any other condition to which the certificate of registration is subject.
- (2) The Minister may not cancel the registration of a child for home schooling under subsection (1) (a) if:
- (a) the child was prevented from receiving instruction by sickness, permanent or temporary incapacity or some accident or unforeseen event; or
 - (b) the child has not received instruction for only 3 days or less in any period of 3 months during which the child has been registered for home schooling; or
 - (c) any failure to ensure that the child received instruction was a result of the child's disobedience and was not due to the neglect or default of the parent.
- (3) The Minister may not cancel the registration of a child for home schooling unless notice of the authorised person's recommendation to the Minister has been given to a parent of the child and:
- (a) 30 days have elapsed since the parent was given written notice of the authorised person's recommendation and no appeal has been made to the Schools Appeals Tribunal against the recommendation within those 30 days; or
 - (b) the Schools Appeals Tribunal has decided an appeal (made within those 30 days) against the recommendation and the Minister has considered any contrary recommendation of the Board and the reasons for it; or
 - (c) any such appeal against the recommendation has been withdrawn.

Division 6 - Conscientious objections to registration

Notice to the Minister of conscientious objection

75. A person who:

- (a) proposes to establish a new non-government school; or
- (b) is the proprietor of a registered non-government school; or
- (c) being a parent of a child, wishes the child to receive home schooling,

may give the Minister written notice that the person conscientiously objects on religious grounds to registration under this Act.

Consideration of notice of conscientious objection by Board

76. (1) The Minister, on receipt of a notice of conscientious objection to registration, is to refer the matter:

- (a) if the objection is to registration of a school, to the Board; or
- (b) if the objection is to registration of a child for home schooling, to an authorised person (within the meaning of Division 5).

(2) As soon as practicable (but not later than 6 months) after an objection is referred to the Board or an authorised person for advice, the Board or authorised person is to give the Minister a written report about the matter, including a recommendation as to whether or not the Minister should accept the objection.

(3) The Board or the authorised person is to give the person who objects to registration notice of a recommendation to the Minister that the Minister not accept the objection.

(4) For the purposes of Part 10 (Schools Appeals Tribunal) any such recommendation is to be regarded as:

- (a) in the case of an objection to registration of a school, a recommendation that the Minister not register the school; or
- (b) in the case of an objection to registration of a child for home schooling, a recommendation that the Minister not register the child for home schooling.

Acceptance or rejection of conscientious objection

77. (1) The Minister may accept an objection to registration under this Act if the Minister, having considered the report of the Board or

authorised person and any decision of the Schools Appeals Tribunal, is satisfied that:

- (a) the Minister would be required to register the school or the child for home schooling (as the case may be) under this Act if an application had been made for such registration; and
- (b) the objection to registration is conscientiously held on religious grounds.

(2) If the Board or authorised person has recommended that the Minister not accept an objection to registration, the Minister may not act in accordance with that recommendation before:

- (a) 30 days have elapsed since the objector was given written notice of the recommendation of the Board or authorised person and no appeal under Part 10 has been lodged against the recommendation within those 30 days; or
- (b) the Schools Appeals Tribunal has decided an appeal (made within those 30 days) against the recommendation; or
- (c) any such appeal against the recommendation has been withdrawn.

Certificate of exemption

78. (1) If the Minister accepts an objection to registration, the Minister is to issue a certificate exempting the school or the child (as the case may be) from the requirement to be registered under this Act.

(2) A certificate under this section may be given subject to conditions.

(3) A certificate under this section is to be limited in its operation to a period, specified in the certificate, not exceeding:

- (a) 6 years in the case of a school; or
- (b) 2 years in the case of home schooling.

Notice of decision to refuse to accept objection

79. The Minister is to give any person who objects to registration under this Part written notice of a decision not to accept the objection.

Exempted school to be regarded as registered

80. (1) A school to which a current certificate of exemption applies under this Division is to be regarded as registered under this Act.

(2) For the purposes of the application of this Act to such a school, the school is to be regarded as becoming unregistered if:

- (a) the period for which the school has been exempted has expired and a notice of a decision of the Minister not to accept a further objection to registration under this Act has been given in accordance with this Part; or
- (b) the school's exemption has been cancelled under this Division.

Child to be regarded as registered for home schooling

81. A child to whom a current certificate of exemption applies under this Division is to be regarded as registered for home schooling under this Act.

Cancellation of exemption

82. (1) The Minister may, on the recommendation of the Board, cancel an exemption granted under this Division if the Minister is satisfied:

- (a) that the Minister would be entitled to cancel the registration of the school or child for home schooling had the school or child (as the case may be) been registered; or
- (b) that the objection to registration is not conscientiously held on religious grounds.

(2) A recommendation of the Board that the Minister cancel an exemption under this Division is to be regarded for the purposes of Part 10 (Schools Appeals Tribunal) as:

- (a) in the case of a school, a recommendation that registration of the school be cancelled; or
- (b) in the case of a child receiving home schooling, a recommendation that registration of the child for home schooling be cancelled.

(3) The Minister may not cancel an exemption under this Division unless notice of the recommendation of the Board or the authorised person has been given to the proprietor of the school or the parent or guardian of the child concerned and:

- (a) 30 days have elapsed since the giving of that notice during which time no appeal has been lodged against the recommendation of the Board or the authorised person; or

- (b) the Schools Appeals Tribunal has decided an appeal (made within those 30 days) against the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it; or
- (c) any such appeal has been withdrawn.

Current certificate of exemption to be displayed

83. (1) The current certificate of exemption of a school is to 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 of the school is guilty of an offence.

Maximum penalty: 5 penalty units.

PART 8 - CERTIFICATES OF STUDY

Division 1 - Accreditation of government and non-government schools

Accreditation of existing schools

84. (1) A government or non-government school that, immediately before the commencement of this section, provided courses of study for students in Year 10 is to be taken to have been accredited under this Part on that commencement for the purpose of presenting candidates for the School Certificate.

(2) A government or non-government school that, immediately before the commencement of this section, provided courses of study for students in Year 11 or Year 12 is to be taken to have been accredited under this Part on that commencement for the purpose of presenting candidates for the Higher School Certificate.

(3) Accreditation under this section has effect for the period of the school's initial registration under this Act in accordance with section 47.

Applications for accreditation of schools

85. (1) Application may be made to the Board for the accreditation of a school for the purpose of presenting candidates for the School Certificate or Higher School Certificate, or both.

(2) Such an application may be made by the proprietor or principal of a registered school or, in the case of a registered school that is a member of a system of schools, by the approved authority for the system.

Accreditation by Board

86. (1) As soon as practicable after receiving an application for accreditation of a school, the Board:

- (a) is to accredit the school in a Register kept by the Board for the purpose; or
- (b) is to refuse to accredit the school.

(2) The Board is to accredit a school if it is satisfied that the requirements relating to the courses of study to be undertaken by candidates for the certificate concerned will be complied with at the school.

(3) The Board may satisfy itself of that matter by having regard to:

- (a) material provided by the applicant indicating the methods used or intended to be used to monitor and ensure compliance with those requirements; and
- (b) a report of a Board inspector.

(4) The Board is to issue a certificate of accreditation for any school it accredits.

Duration of accreditation

87. (1) Accreditation has effect for such period (not exceeding 6 years) as is specified in the certificate of accreditation, commencing on a date so specified.

(2) Unless the Board considers it is not appropriate in any particular case, the period of accreditation of a school is to correspond to the period of registration of the school.

(3) If a school becomes a member of a system of schools, the Board may require the school to be re-accredited for a different period in order to comply with subsection (2).

Decision of Board not to accredit school

88. (1) The Board is to give written notice of a decision not to accredit or to grant accreditation different from that applied for and the reasons for its decision to the applicant for accreditation.

- (2) Any such decision of the Board has no effect:
 - (a) until 30 days have elapsed since the applicant was given written notice of the decision; or
 - (b) if an appeal against the decision has been lodged with the Schools Appeals Tribunal within those 30 days, unless (and until such time as) the Tribunal has confirmed the decision or the appeal has been withdrawn.

Minister may accredit school

89. (1) If the Schools Appeals Tribunal, in deciding an appeal against a decision of the Board not to accredit a school (or to grant accreditation different from that applied for), recommends to the Minister that the Minister accredit the school, the Minister is:

- (a) to accredit the school; or
- (b) to refuse to accredit the school.

(2) The Minister may accredit the school if the Minister, having considered the reasons for the Board's decision and the reasons for the recommendation of the Tribunal, is satisfied that the school will comply with the requirements relating to the courses of study to be undertaken by candidates for the recognised certificate concerned.

Quality of educational program to be assessed

90. (1) In deciding whether the requirements relating to the courses of study for the recognised certificate concerned will be complied with (or are being complied with) at a school, the Board or the Minister is to have regard to such matters as:

- (a) the record (if any) of achievement by students at the school in the courses; and
- (b) the standard of teaching the courses at the school; and
- (c) the facilities provided or to be provided at the school for the courses.

(2) While the Board and the Minister may have regard to such other matters as the Board or the Minister thinks fit (including the number

of hours allocated at the school for the courses of study concerned), the matters referred to in subsection (1) (a), (b) and (c) are the principal matters to which each is to have regard in deciding whether the requirements will be (or are being) complied with.

Renewal of accreditation

91. (1) The accreditation of a school may, on application duly made, be renewed before the expiry of the period for which accreditation was last granted.

(2) The provisions of this Division relating to applications for initial accreditation and the determination of those applications apply to applications for renewal of accreditation and the determination of those applications.

Cancellation of accreditation

92. (1) The Board may, by notice in writing to:

- (a) the proprietor or principal of a school; or
- (b) in the case of a school that is a member of a system of schools, the approved authority for the system,

cancel the accreditation of the school if the Board is satisfied that the requirements relating to the courses of study to be undertaken by candidates for the certificate concerned are not being complied with at the school.

(2) Any such notice has no effect:

- (a) until 30 days have elapsed since the giving of the notice; or
- (b) if an appeal against the cancellation has been lodged within those 30 days with the Schools Appeals Tribunal, unless (and until such time as) the Tribunal has confirmed the decision of the Board to cancel the school's accreditation or the appeal has been withdrawn.

(3) If the Schools Appeals Tribunal, in deciding an appeal against cancellation of accreditation, recommends to the Minister that accreditation not be cancelled, the Minister, as soon as practicable after the appeal has been decided, is:

- (a) to quash the Board's decision to cancel the school's accreditation; or
- (b) to cancel the school's accreditation or to cancel it in so far as it relates to one of the recognised certificates.

(4) The Minister is to give the proprietor or principal of the school or, in the case of a school in a system of schools, the approved authority for the system, written notice of the Minister's decision.

Division 2 - Certificates

School Certificate

93. (1) School Certificates are to be granted by the Board to students:

- (a) who:
 - (i) have attended a registered school to which a current certificate of accreditation for presentation of candidates for the School Certificate applies; or
 - (ii) have attended a school outside New South Wales recognised by the Board; and
- (b) who have participated, to the Board's satisfaction, in courses of study which have been determined under this Act as appropriate to be undertaken by candidates for the School Certificate; and
- (c) who have been accepted by the Board as having satisfactorily completed those courses of study; and
- (d) who have, to the Board's satisfaction, undertaken the 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; and
- (f) who have completed Year 10.

(2) The requisite examination or other assessment may be conducted on a school-basis, but must be moderated on a State-wide basis in the key learning areas of English, Mathematics and Science.

(3) A School Certificate must report the results of the requisite examination or other assessment in accordance with a common scale ranging from A to E.

(4) The Board may refuse to grant a 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.

Higher School Certificate

94. (1) Higher School Certificates are to be granted by the Board to students:

- (a) who have been granted a School Certificate or who have attained such other qualifications as the Board considers satisfactory; and
- (b) who:
 - (i) have attended a registered school to which a current certificate of accreditation for presentation of candidates for the Higher School Certificate applies; or
 - (ii) have attended 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
- (c) who have, to the Board's satisfaction, undertaken the requisite examinations or other forms of assessment; and
- (d) who have complied with any prescribed requirements or any requirements imposed by the Minister or the Board.

(2) The requisite examination or other assessment must include a public examination conducted on a State-wide basis.

(3) 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.

95. (1) If the Board is satisfied that a candidate for one of the recognised certificates was unable, because of illness or misadventure, to undertake an examination or other form of assessment for that certificate, the Board may determine that the candidate is to be treated, for the purposes of this Act, as:

- (a) having undertaken that examination or other form of assessment; and
- (b) having attained in the 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 recognised 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 is to 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 is to 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 period prescribed by the rules of the Board; and
- (b) supported by evidence acceptable to the Board.

Reconsideration of decisions

96. (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 School Certificate or a Higher School Certificate requests the Board to reconsider the decision, the Board is, subject to the rules of the Board, to reconsider the decision and confirm, reverse or vary the decision.

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

(3) Rules of the Board 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; and
- (b) any other matter relevant to the disposal of any such request.

Record of achievement

97. (1) The Board is to issue a record of achievement to a student at any accredited school in the following cases:

- (a) a student who completes Year 10 (whether or not the student leaves school);
- (b) a student who undertakes courses of study in Year 11 or 12 (but only when the student leaves school).

(2) The record is to specify the student's achievements in any courses of study undertaken in Year 10 or in Year 11 or 12 (as the case

requires), and may include such other information relating to the student's activities at school as the Board thinks appropriate.

(3) A record of achievement is not to be issued unless the student is undertaking courses of study for a recognised certificate.

(4) A student is to be issued with a record of achievement whether or not the student is also granted a recognised certificate.

(5) If the student has completed less than the period of study determined by the Board in either Year 11 or 12, the Board is not required to include any information relating to the student's achievements or activities in Year 11 or 12, respectively.

(6) The Board may issue special records of achievement to students with intellectual disabilities who undertake formal courses of study even though the courses are not undertaken for a recognised certificate.

PART 9 - THE BOARD OF STUDIES

The Board of Studies

98. (1) There is constituted by this Act a corporation with the corporate name of the Board of Studies.

(2) The Board:

- (a) has the functions conferred or imposed on it by or under this or any other Act; and
- (b) is, for the purposes of any Act, a statutory body representing the Crown.

Constitution of the Board

99. (1) The Board is to consist of:

- (a) 4 ex-officio members; and
- (b) 11 appointed members.

(2) The ex-officio members are:

- (a) the President of the Board; and
- (b) the Director-General of Education or a nominee of that Director-General; and
- (c) the Director-General of Technical and Further Education or a nominee of that Director-General; and

- (d) the Secretary of the Ministry of Education and Youth Affairs or an officer of that Ministry nominated by the Secretary.
- (3) The appointed members are to be persons appointed by the Minister, being:
 - (a) one nominee of the New South Wales Vice-Chancellors' Committee;
 - (b) one nominee of the Council of the Federation of Parents and Citizens Associations of New South Wales;
 - (c) one nominee of the Catholic Education Commission of New South Wales;
 - (d) one person, being a nominee of the Association of Independent Schools, the Headmasters' Conference or the Association of Heads of Independent Girls' Schools;
 - (e) one parent of a child attending a non-government school, being a nominee of the Catholic Education Commission of New South Wales or the New South Wales Parents' Council;
 - (f) one principal of a government school, being a nominee of the New South Wales Council of Primary School Principals or the New South Wales Council of Secondary School Principals;
 - (g) one government school teacher (other than a principal), being the nominee of the New South Wales Teachers Federation;
 - (h) 4 other persons having, in the Minister's opinion, qualifications or experience that enables them to make a valuable contribution to primary or secondary education in New South Wales.
- (4) Schedule 1 has effect with respect to the members and procedure of the Board.

President of the Board

100. (1) The Governor may appoint a President of the Board.
- (2) The President is to be appointed on either a full-time or part-time basis.
- (3) If the President is appointed on a full-time basis, the employment of the President is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

Functions of the Board

101. (1) The Board is to exercise its functions in connection with the education of children at both the primary and secondary level.

(2) In particular, the Board has the following functions:

- (a) to develop or endorse syllabuses, determine courses of study and exercise its other functions under Part 3 (The School Curriculum);
- (b) to provide advice and make recommendations to the Minister about the registration of schools under Part 7;
- (c) to accredit registered schools under Part 8;
- (d) to grant the recognised certificates;
- (e) to prepare and distribute to schools information relating to the courses of study for candidates for the recognised certificates, and information relating to eligibility to be granted those certificates;
- (f) to prepare and make available to schools curriculum support materials;
- (g) to develop or endorse courses of study that are appropriate for students (including candidates for the recognised certificates) who wish to continue at or return to school after the normal school-leaving age (including on a part-time basis);
- (h) to develop or endorse, in consultation with the Director-General of Technical and Further Education, courses of study that will enable school students to be granted credits by colleges within the meaning of the Technical and Further Education Act 1974;
- (i) to make such arrangements as may be necessary for the conduct of examinations or other forms of assessment for candidates for the recognised certificates and to regulate the conduct of those examinations or other forms of assessment and the recording of candidates' achievements in them;
- (j) to prepare and distribute to schools information relating to the conduct of examinations and other forms of assessment for candidates for the recognised certificates;
- (k) to recognise, for any of the purposes of this Act, educational attainments obtained at educational institutions outside New South Wales;

- (l) to provide advice and guidance to schools concerning the policies and practices of the Board;
- (m) to provide advice and assistance to students, employers and the public concerning the nature and content of courses of study for the recognised certificates (and the assessment and reporting of candidates' achievements in those courses);
- (n) to monitor, by inspection of schools and otherwise, the application of its policies in schools;
- (o) to arrange for the development of appropriate curriculum resources and other material to assist in the education of school students with an Aboriginal background;
- (p) to develop curriculum resources for use in the teaching of Aboriginal studies (including Aboriginal history and culture);
- (q) to advise the Minister in relation to the following matters:
 - (i) any changes to the requirements of Part 3 that the Board considers appropriate;
 - (ii) the functions of the Minister under Part 4;
 - (iii) whether changes should be made in the number or type of recognised certificates;
 - (iv) the likely impact of any change in the Board's policies (particularly in relation to courses of study) on the overall planning, allocation or use of educational resources in New South Wales;
 - (v) special arrangements for students with disabilities, including the approval of special courses of study, the modification of requirements for the grant of the recognised certificates and the grant of special records of achievement;
 - (vi) any matter in relation to which the Minister requests the Board's advice.
- (3) The Board, in the exercise of its functions, is to have regard to:
 - (a) the resources available for education in New South Wales schools; and
 - (b) the desirability of promoting the provision of education in schools that adequately equips students to acquire a vocation and for their life in the community.

Committees of the Board

102. (1) The Board may appoint such committees as the Board considers appropriate to assist it in the exercise of its functions.

(2) The membership and procedure of a committee of the Board is to be as determined by the Board or (subject to any determination of the Board) by the committee.

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

Staff of the Board

103. (1) Board inspectors and such other staff as may be necessary to enable the Board to exercise its functions are to be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Board may, with the approval of the Minister, arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a teaching service, a government department, an administrative office, a public or local authority or any other relevant body.

(3) The Board may appoint any person whose services are made use of under this section to exercise the functions of a Board inspector under this Act.

Casual staff

104. (1) The Board may employ casual staff in connection with the exercise of its functions in respect of examinations or other forms of assessment or for any other purpose approved by the Minister.

(2) Any such casual staff are to be employed on such terms and conditions as are approved by:

- (a) in the case of casual staff employed to mark examinations - the Secretary of the Ministry of Education and Youth Affairs; or
- (b) in any other case - the Public Employment Industrial Relations Authority.

(3) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the employment of any such casual staff.

Reports of the Board

105. The Board is required to provide the Minister with such reports on the activities of the Board as the Minister may from time to time direct.

PART 10 - SCHOOLS APPEALS TRIBUNAL

Schools Appeals Tribunal

106. (1) There is to be a Schools Appeals Tribunal consisting of 3 members appointed by the Minister.

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

(3) In the exercise of its functions, the Tribunal is to 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; and
- (c) that a written record is kept of any oral submissions made to the Tribunal during proceedings.

Appeals

107. (1) An appeal may be made to the Tribunal against any of the following:

- (a) a recommendation of the Board that registration of a school be refused;
- (b) a recommendation of the Board that registration of a school not be renewed;
- (c) a recommendation of the Board that registration of a school be cancelled;
- (d) a recommendation of an authorised person that the Minister refuse to register a child for home schooling;
- (e) a recommendation of an authorised person that the registration of a child for home schooling be cancelled;

- (f) a decision of the Board not to accredit a school;
- (g) a decision of the Board not to renew the accreditation of a school;
- (h) a decision of the Board to cancel a school's accreditation.

(2) Any such appeal may be made by any person who is or is required to be given notice of the recommendation or decision under this Act.

Determination of appeal by the Tribunal

108. The Tribunal may, on an appeal made under this Part against a recommendation or decision, confirm the recommendation or decision or:

- (a) in the case of an appeal against a recommendation of the Board or an authorised person, make a different recommendation to the Minister concerning the matter the subject of the appeal; or
- (b) in the case of an appeal against a decision of the Board not to accredit a school, recommend to the Minister that the Minister accredit the school as requested or grant such other accreditation as the Tribunal considers appropriate; or
- (c) in the case of an appeal against a decision of the Board to cancel a school's accreditation, recommend to the Minister that the Minister not cancel the accreditation or cancel it only in so far as it relates to one of the recognised certificates.

Failure by Board to make recommendation or decision

109. (1) An applicant:

- (a) for registration of a school; or
- (b) for accreditation of a school,

may, at any time later than 5 months after lodgment of the application, by notice in writing request the Board to make a recommendation or to make a decision (as the case may be) on the application within 30 days.

(2) A failure by the Board to make a recommendation on an application for registration of a school:

- (a) in the case of a school that is being re-established, within 60 days of the lodgment of the application; or

- (b) in any other case, within 30 days of service of a notice under subsection (1),

is to be regarded, for the purposes of this Part, as a recommendation of the Board that the Minister refuse to register the school.

(3) A failure by the Board to make a decision as to the accreditation of a school within 30 days of service of a notice under subsection (1) is to be regarded, for the purposes of this Part, as a decision of the Board not to accredit the school.

Failure to make decision about application to register child for home schooling

110. (1) An applicant for registration of a child for home schooling may, at any time later than 5 months after lodgment of the application, request the Minister to obtain advice from an authorised person about the application within 30 days.

(2) If the applicant does not, within 30 days of service of the notice, receive written notice of a recommendation to the Minister about the application, the failure of the Minister to obtain such advice is to be regarded, for the purposes of this Part, as a recommendation that the Minister refuse to register the child for home schooling.

Time within which an appeal may be lodged

111. An appeal may be lodged:

- (a) within 30 days of the giving of the notice of the recommendation or decision against which the appeal is brought; or
- (b) in the case of an appeal arising from a failure of the the Board to make a recommendation or decision, within 30 days of the end of the relevant period referred to in section 109 (2) or (3); or
- (c) in the case of an appeal arising from a failure of the Minister to obtain advice about an application for registration of a child for home schooling, within 30 days of the relevant period referred to in section 110 (2).

Reasons for decision

112. (1) When the Tribunal decides an appeal made under this Part, the Tribunal is to give the Minister a written report setting out its decision and the reasons for it.

(2) The Tribunal, at the request of the appellant, is to address in its report to the Minister any matter in dispute between the appellant and the Board or the authorised person (as the case may be) unless the Tribunal has good reason for not doing so.

(3) In such a case, the Tribunal is to include the reason for refusing to address the matter in its report.

PART 11 - PARENTS AND CITIZENS AND KINDRED ASSOCIATIONS

Constitution of associations and district councils

113. (1) A parents and citizens association or a kindred association may be constituted in connection with any government 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

114. (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
- (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 are the following:

- (a) to report, when requested by the Minister, on the material requirements of the school and to advise on the subject of maintenance of the school, alterations and additions to school facilities, and the selection of new sites;
- (b) to be responsible for the election of parent representatives to any school council constituted at the school;
- (c) to assist and co-operate with the teaching staff in public functions associated with the school;
- (d) to assist in any other matters in which the Minister may seek the co-operation of the association and to exercise such other functions as may be prescribed.

(3) The object of a district council is to advance the common interests of government schools within the area for which it is established, and for that purpose a district council may:

- (a) advise the Minister on all matters (other than staff matters) relating to government schools within the area; and
- (b) assist in raising funds for establishing and maintaining scholarships for pupils attending government schools within the area; and
- (c) assist, when required, in the arrangement and supervision of contracts for the conveyance of children to government schools; and
- (d) assist in the establishment and maintenance of libraries in connection with government schools within the area; and
- (e) exercise such other functions as may be prescribed.

Rules of associations and district councils

115. (1) Each association and district council may, subject to this Act and the regulations, make rules for the conduct of its business and affairs, but those rules are not 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 in the Education Gazette and adopted by an association or district council are to be taken to have been approved by the Minister for the purposes of subsection (1) and take effect on their adoption.

PART 12 - MISCELLANEOUS

Register of schools etc. to be available for inspection

116. Registers kept under this Act of the registration or accreditation of schools are to be made available for public inspection at all reasonable times.

Delegation by the Minister or the Board of Studies

117. 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).

Liability of members of Board etc.

118. (1) A matter or thing done by a relevant authority, any member of a relevant authority or any person acting under the direction of a relevant authority does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject such a member or a person so acting personally to any action, liability, claim or demand.

(2) In this section, "relevant authority" means the Board, a committee of the Board or the Schools Appeals Tribunal.

Entry to premises of registered school

119. (1) For the purposes of an inspection under this Act, a Board inspector is at all reasonable times to have full and free access to the premises and enrolment and attendance records of any registered school.

(2) A person who hinders or obstructs a Board inspector in exercising any power conferred by this section is guilty of an offence.

Maximum penalty: 5 penalty units.

(3) A person is not guilty of an offence under this section because of any act of hindrance or obstruction unless it is established that the Board inspector:

- (a) identified himself or herself as a Board inspector; and
- (b) warned the person that that act constituted an offence.

(4) In this section, "registered school" includes any school or proposed school in respect of which an application for registration has been made under this Act.

Attendance officers

120. An 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
- (ii) request the child to provide 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 provided to the officer by the child.

Evidence

121. (1) In any proceedings under this Act, a certificate purporting to be signed by the principal of a 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 is to be presumed to be so until the court is satisfied to the contrary.

Proceedings for offences

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

Acquisition and disposal of land

123. (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.

(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 or exchange the land; and
- (c) grant easements and rights of way in respect of land acquired under this section.

(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.

(7) Land:

- (a) acquired under or for the purposes of the Public Instruction Act 1880 or the Education and Public Instruction Act 1987; or
- (b) acquired under any other Act for those purposes; or
- (c) held by the Crown in trust under the Public Instruction Act 1880,

is to be taken to have been acquired under this section.

Power to rescind resumptions

124. (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 government 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) On the publication of any notification of rescission, the land described in the notification:

- (a) reverts 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; and
 - (b) is 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) is 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 is, for the purposes of subsection (5), to be taken, on its registration under that Act:
 - (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.
- (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 is to:
- (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 reverted under this section is to 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 is to 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.

Part 2 not to give rise to cause of action etc.

125. Nothing in Part 2 (Objects of Act) gives rise to or affects any civil cause of action.

Scholarships attached to schools

126. (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 government school, a scholarship at any university, college, government school or other institution, and land or money may for that purpose be devised or bequeathed.

(2) Such a scholarship is to 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 is to attach to some other school.

Schools with no principal

127. If a school has no principal:

- (a) any notice required or permitted to be given by or under this Act to the principal of the school, if given to any of the teachers at the school, is to be taken to have been given to every teacher at the school; and
- (b) an obligation imposed by or under this Act on the principal is to be taken 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

128. (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 5 penalty units.

Rules of the Board

129. (1) The Board may make rules, not inconsistent with this Act or the regulations, for or with respect to the exercise of any of its functions.

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

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

Amendment of Children (Care and Protection) Act 1987 No. 54

130. The Children (Care and Protection) Act 1987 is amended:

(a) by inserting at the end of section 10 (Children in need of care) the following subsection:

(4) Without limiting the generality of subsection (1), a child is in need of care if:

(a) the child is of or above the age of 6 years and below the age of 15 years; and

(b) the child fails, without lawful excuse, to attend school regularly; and

(c) that failure does not arise because of the neglect or failure of the child's parents to make all reasonable efforts to cause the child to attend school regularly.

(b) by inserting at the end of section 73 (Restrictions on making orders under sec. 72) the following subsection:

(5) An order may not be made under section 72 (1) (c) (iii) in respect of a child who, because the child fails, without lawful excuse, to attend school regularly, is in need of care unless:

(a) the Children's Court is satisfied that there is some evidence that the child may be in need of care because:

(i) adequate provision is not being made, or is likely not to be made, for the child's care; or

- (ii) the child is being, or is likely to be, abused; or
- (iii) there is a substantial and presently irretrievable breakdown in the relationship between the child and one or more of the child's parents; and
- (b) another order has been previously made under section 72 (1) (b) or (c) (i) or (ii) and despite that order the child has continued, without lawful excuse, to fail to attend school regularly.
- (c) by inserting at the end of Schedule 3 (Savings and transitional provisions) the following Part:

**PART 3 - PROVISIONS CONSEQUENT ON THE
ENACTMENT OF SECTION 130 OF THE
EDUCATION REFORM ACT 1989**

6. A care application may be made under section 57 of this Act in respect of a child referred to in section 10 (4) (as inserted by section 130 of the Education Reform Act 1989) even though the relevant failure to regularly attend school occurred or commenced before the commencement of section 10 (4).

Amendment of Public Sector Management Act 1988 No. 33

131. The Public Sector Management Act 1988 is amended by inserting in Part 2 of Schedule 3B (in alphabetical order of public authorities) the words "President of the Board of Studies (but only if appointed on a full-time basis)".

Repeal of Education and Public Instruction Act 1987 etc.

132. The following Acts and instruments are repealed:

- (a) Education and Public Instruction Act 1987;
- (b) the Miscellaneous Acts (Education and Public Instruction) Repeal and Amendment Act 1987;
- (c) the Education and Public Instruction Regulation 1987.

Savings, transitional and other provisions

133. Schedule 3 has effect.

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF THE BOARD OF STUDIES**

(Sec. 99)

Definition

1. In this Schedule, "appointed member" means a member of the Board appointed by the Minister, and includes the President of the Board if appointed on a part-time basis.

Nominations for appointed members

2. (1) For the purposes of section 99 (3), the Minister may require a body or bodies responsible for nominating a member of the Board to furnish a list of so many nominees as the Minister may specify, from which the Minister may select the nominee to be appointed.

(2) In default by the nominating body or bodies in complying with the requirement, the Minister may appoint such person as the Minister thinks fit.

(3) In furnishing a list of nominees, the body or bodies responsible for the nominations is required to have regard to the need to nominate both men and women and persons who have professional experience or demonstrated interest in the education of girls, the education of children with disabilities, Aboriginal education, the education of children from non-English speaking backgrounds, and in primary as well as secondary education.

Representation of certain interests

3. The Board at any time is to include (as far as practicable):

- (a) members who have professional experience or demonstrated interest in the education of girls; and
- (b) at least one member who has professional experience or demonstrated interest in the education of children with disabilities; and
- (c) at least one member who has professional experience or demonstrated interest in Aboriginal education; and
- (d) at least one member who has professional experience or demonstrated interest in the education of children from non-English speaking backgrounds.

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF THE BOARD OF STUDIES - *continued***

Deputy President

4. The Board may appoint, from among its members, a person to be the Deputy President of the Board.

Term of office

5. Subject to this Act, an appointed member is to 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

6. (1) The Minister may, from time to time, appoint a person to be an alternative member of the Board.

(2) The alternative members for appointed members are to be appointed by the Minister after consultation with the bodies responsible for nominating those members.

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

(4) 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 (or a vacancy in the office of that member) and, while so acting, has all the functions of that member and is to be taken to be that member.

Remuneration

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

Filling of vacancy in office of appointed member

8. If the office of any appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF THE BOARD OF STUDIES - *continued***

Casual vacancies

9. (1) The office of an appointed member becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent 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; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a 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; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more 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; or
- (i) being a member referred to in section 99 (3) (e)-(g), ceases to hold the qualifications or office necessary for his or her membership.

(2) The Minister may remove from office an appointed member on any ground that appears to the Minister to be sufficient.

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF THE BOARD OF STUDIES - *continued***

Disclosure of pecuniary interests

10. (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, is to disclose, as soon as possible after the relevant facts have come to the member's knowledge, 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 is not, unless the Minister otherwise determines:

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

(3) Even though 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

11. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed member.

(2) 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.

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF THE BOARD OF STUDIES - *continued***

(3) The office of a member of the Board is for the purposes of any Act to be taken not to be an office or place of profit under the Crown.

General procedure

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

Quorum

13. The quorum for a meeting of the Board is a majority of the members of the Board for the time being.

Presiding member

14. (1) The President or, in the absence of the President, the Deputy President is to 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 any equality of votes, has a second or casting vote.

Voting

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

Minutes

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

Proof of certain matters not required

17. 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;
- (c) the appointment of, or the holding of any qualifications or office by, any member of the Board; or

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF THE BOARD OF STUDIES - *continued***

- (d) the presence of a quorum at any meeting of the Board.

First meeting of the Board

18. The Minister is to call the first meeting of the Board in such manner as the Minister thinks fit.

**SCHEDULE 2 - PROVISIONS RELATING TO THE MEMBERS
AND PROCEDURE OF THE SCHOOLS APPEALS TRIBUNAL**
(Sec. 106)

Qualifications

1. Of the members of the Tribunal:
 - (a) one is to be a person having expertise in primary and secondary education in government schools;
 - (b) one is to be a person having expertise in primary and secondary education in non-government schools; and
 - (c) the remaining member, who is to be the presiding member, is to 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 conduct of a registered school or registered schools.

Term of office

2. Subject to this Schedule, a member of the Tribunal holds 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.

Acting members

3. (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 has all the functions of the member.

**SCHEDULE 2 - PROVISIONS RELATING TO THE
MEMBERS AND PROCEDURE OF THE SCHOOLS
APPEALS TRIBUNAL - *continued***

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

(3) For the purposes of this clause, a vacancy in the office of a member is to be taken to be an absence from office of the member.

Remuneration

4. 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

5. If the office of any member of the Tribunal becomes vacant, a person is, subject to this Schedule, to be appointed to fill the vacancy.

Casual vacancies

6. (1) The office of a member of the Tribunal becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (f) 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; or

**SCHEDULE 2 - PROVISIONS RELATING TO THE
MEMBERS AND PROCEDURE OF THE SCHOOLS
APPEALS TRIBUNAL - *continued***

- (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more 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; or
 - (h) in the case of the presiding member, becomes a person described in clause 1 (c) (i), (ii) or (iii).
- (2) The Minister may remove a member from office at any time.

Public Sector Management Act 1988 not to apply

7. Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member of the Tribunal.

General procedure

8. The procedure to be followed before any sittings of the Tribunal is, subject to the regulations, to be as the presiding member determines.

Decisions

9. The decision of the majority of members of the Tribunal is the decision of the Tribunal.

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS**

(Sec. 133)

Part 1 - Preliminary

Definitions

1. In this Schedule:

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

"former Act" means the Education and Public Instruction Act 1987.

Regulations

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of that publication; or
- (b) to impose a liability on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of that publication.

Part 2 - Provisions consequent on enactment of this Act

Dissolution of Board of Secondary Education

3. (1) The Board of Secondary Education constituted under the former Act is dissolved.

(2) A person who, immediately before the dissolution of that Board, held office as a member of that Board:

- (a) ceases to hold that office; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office; and
- (c) is eligible (if otherwise qualified) to be appointed as a member of the Board of Studies constituted under this Act.

(3) The assets, rights, liabilities and obligations of the Board of Secondary Education become, on its dissolution, the assets, rights, liabilities and obligations of the Board of Studies constituted under this Act.

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued***

Associations and councils

4. (1) A parents and citizens association or kindred association established (or deemed to be established) under the former Act, or a district council so established, that was in existence immediately before the repeal of the former Act, is to be taken to be a parents and citizens association or kindred association, or a district council, constituted under this Act.

(2) Rules made by any such association or council and in force immediately before the repeal of the former Act continue in force and are to be taken to have been made under this Act.

Construction of superseded references

5. In any other Act, in any instrument made under any Act or in a document of any kind:

- (a) a reference to a public school or State school is to be read as a reference to a government school under this Act; and
- (b) a reference to a certified school under the Public Instruction (Amendment) Act 1916 or a school registered under the Bursary Endowment Act 1912 or a school registered under the former Act is to be read as a reference to a registered school under this Act (other than a government school); and
- (c) a reference to the Secondary Schools Board or the Board of Senior School Studies or the Board of Secondary Education is to be read as a reference to the Board of Studies under this Act; and
- (d) a reference to the school leaving age is to be read as a reference to the age of 15 years.

Continuation of existing exemptions from attendance at school

6. A certificate of exemption under section 6 of the Education and Public Instruction Act 1987 and in force on the repeal of that Act is to be taken to be a certificate of exemption under section 26 of this Act.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

Vesting of land in Minister

7. The repeal of section 45A of the Education and Public Instruction Act 1987 does not affect the vesting of land under that section.

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AND YOUTH AFFAIRS 1989

