

**VOCATIONAL EDUCATION AND TRAINING ACCREDITATION  
ACT 1990 No. 120**

**NEW SOUTH WALES**



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

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VOCATIONAL EDUCATION AND TRAINING ACCREDITATION  
ACT 1990 No. 120

NEW SOUTH WALES



Act No. 120, 1990

An Act to establish the Vocational Education and Training Accreditation Board and to define its functions; to provide for the accreditation of vocational courses; and to amend the Technical and Further Education Act 1974. [Assented to 18 December 1990]

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

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Vocational Education and Training Accreditation Act 1990.

**Commencement**

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

**Objects**

3. The objects of this Act are:

- (a) to provide for the accreditation of courses of vocational education and training conducted within New South Wales; and
- (b) to promote consistency of standards in vocational education and training; and
- (c) to encourage the recognition of courses of vocational education and training that are accredited under this Act.

**Definitions**

4. (1) In this Act:

"**accredited vocational course**" means a vocational course that is for the time being accredited under this Act;

"**advisory committee**" means an advisory committee established under this Act;

"**authorised accrediting body**" means a person or body (other than the Board) that is authorised under this Act to accredit vocational courses;

"**authority**" means an authority under this Act under which a person or body is authorised to accredit vocational courses;

"**Board**" means the Vocational Education and Training Accreditation Board constituted by this Act;

"**education or training provider**" means a person or body that conducts vocational courses;

"**General Manager**" means the General Manager of the Board;

**"inspector"** means an officer of the Board who is for the time being appointed as an inspector for the purposes of this Act;

**"relevant authority"** means:

- (a) in the case of a vocational course that relates to a declared trade or declared calling (within the meaning of the Industrial and Commercial Training Act 1989) - the Industrial and Commercial Training Council; and
- (b) in the case of a vocational course that relates to a trade or calling (whether or not a declared trade or declared calling within the meaning of the Industrial and Commercial Training Act 1989) - a person or body prescribed by the regulations in relation to that course;

**"relevant guidelines"**, in relation to a vocational course, means guidelines in force under this Act in relation to that course;

**"vocational course"** means a course or proposed course of vocational education or vocational training, but does not include:

- (a) a course of studies (being a course of studies that leads to a degree) conducted by an official university or other corporation, body or institution authorised under the Higher Education Act 1988 to confer degrees; or
- (b) an advanced education course (being a course of studies that leads to a degree) approved under that Act.

(2) In this Act, a reference to a course conducted by an education or training provider includes a reference to a course to be conducted by the provider.

(3) 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 - CONSTITUTION AND FUNCTIONS OF THE BOARD**

### **Constitution of the Board**

5. (1) There is constituted by this Act a body corporate under the name of the Vocational Education and Training Accreditation Board.

- (2) The Board is to comprise 10 members, consisting of:
  - (a) the General Manager; and
  - (b) 9 part-time members appointed by the Minister.
- (3) Of the part-time members:
  - (a) one is to be a person nominated by the Council of Technical and Further Education; and
  - (b) one is to be a person nominated by the Minister for School Education and Youth Affairs; and
  - (c) 3 are to be persons having such qualifications or experience in the provision or accreditation of vocational education or training as the Minister considers appropriate; and
  - (d) 2 are to be persons having such qualifications or experience in the provision of vocational education or training for students with special needs as the Minister considers appropriate; and
  - (e) 2 are to be persons having such qualifications or experience in industry, commerce or industrial relations as the Minister considers appropriate.
- (4) If a nomination referred to in subsection (3) (a) or (b) is not made within such time as the Minister allows, the Minister may appoint any person whom he or she considers to be suitably qualified in place of a person required to be so nominated.
- (5) At least 2 of the part-time members referred to in subsection (3) (c) are to be members of the Industrial and Commercial Training Council.
- (6) One of the part-time members of the Board is, by the instrument of his or her appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board.
- (7) Schedule 1 has effect with respect to the members and procedure of the Board.

### **Objects and functions of the Board**

6. (1) The objects of the Board are:
  - (a) to accredit, and to authorise other persons and bodies to accredit, vocational courses; and
  - (b) to establish guidelines for the accreditation of vocational courses; and

- (c) to advise the Minister on matters concerning the accreditation of vocational courses; and
  - (d) to liaise with licensing authorities and other bodies (both in New South Wales and elsewhere) in connection with the accreditation of vocational courses; and
  - (e) to investigate, and to report on, matters concerning the accreditation of vocational courses.
- (2) The Board:
- (a) has such functions as are necessary or convenient to enable it to achieve its objects and to promote the objects of this Act; and
  - (b) has such other functions as are conferred or imposed on it by or under this or any other Act or law; and
  - (c) is, in the exercise of its functions, subject to the control and direction of the Minister; and
  - (d) is, for the purposes of any Act, a statutory body representing the Crown.

### **Staff of the Board**

7. (1) A General Manager, 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 or facilities of a government department, an administrative office or a public or local authority.

(3) For the purposes of this Act, a person who is employed under this section or whose services are made use of under this section is an officer of the Board.

### **Advisory committees**

8. (1) The Board may establish advisory committees to assist it in the exercise of its functions.

(2) Any or all of the members of an advisory committee may be persons who are not members of the Board.

(3) Without limiting the generality of subsection (2), the membership of an advisory committee may comprise the members of any body, including any body in the nature of an industry training committee, whether established in New South Wales or elsewhere.

(4) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

#### **Delegation by the Board**

9. The Board may delegate to a member of the Board, to an advisory committee or to an officer of the Board the exercise of any of its functions, other than this power of delegation.

### **PART 3 - ACCREDITATION OF VOCATIONAL COURSES**

#### **Division 1 - Guidelines and authorities**

##### **Guidelines**

10. (1) The Board may from time to time issue guidelines as to:

- (a) course programs; and
- (b) course nomenclature; and
- (c) accreditation procedures; and
- (d) financial and ethical standards to be satisfied by education or training providers; and
- (e) conditions to be imposed on accreditation,

to be adopted in relation to the accreditation of vocational courses.

(2) Copies of each guideline issued under this section are to be kept at the office of the Board and are to be made available for public inspection free of charge, and for purchase, during ordinary office hours.

##### **Authorities**

11. (1) The Board may, on the application of any person or body, grant an authority to the person or body to accredit vocational courses, whether or not those courses are conducted by that person or body.

(2) An application for an authority must be in such form, and must be accompanied by such fee, as the Board may determine.



- (3) An authority may be granted:
  - (a) unconditionally or subject to such conditions (which may be imposed when the authority is granted or at any time thereafter) as the Board may determine; and
  - (b) in respect of vocational courses generally or in respect of specified vocational courses or specified classes of vocational courses.
- (4) Without limiting the generality of subsection (3), an authority may be granted subject to conditions:
  - (a) specifying the period for which the authority is to remain in force; and
  - (b) requiring the payment of fees to the Board in respect of the accreditation of vocational courses; and
  - (c) regulating the fees that may be charged by the holder of the authority in respect of the accreditation of vocational courses.
- (5) The Board may:
  - (a) revoke an authority; or
  - (b) revoke or vary any condition to which an authority is subject; or
  - (c) impose additional conditions on the authority.

## **Division 2 - Accreditation by the Board**

### **Accreditation**

12. (1) The Board may, on the application of an education or training provider, accredit any vocational course conducted by the provider.

- (2) An application for accreditation:
  - (a) must specify the vocational course or courses to which it relates; and
  - (b) must specify the address of the premises in or from which each such course is conducted; and
  - (c) must be in such form, and must be accompanied by such fee, as the Board may determine.
- (3) Accreditation may be granted unconditionally or subject to such conditions (which may be imposed when accreditation is granted or at any time thereafter) as the Board may determine.

(4) Without limiting the generality of subsection (3), accreditation may be granted subject to conditions:

- (a) specifying the period for which the accreditation is to remain in force; and
- (b) requiring the payment of fees to the Board in respect of the accreditation.

(5) The Board may not refuse to accredit a vocational course except on the following grounds:

- (a) that the education or training provider concerned does not have the resources to conduct the course in a competent manner;
- (b) that the course is not of sufficient quality to warrant accreditation;
- (c) that the course does not, or the resources of the education or training provider to conduct the course do not, comply with the relevant guidelines.

#### **Withdrawal of accreditation**

13. (1) The Board may, on its own motion or on the application of any person or body:

- (a) withdraw accreditation from any vocational course conducted by an education or training provider (whether accreditation has been granted by the Board or by an authorised accrediting body); or
- (b) revoke or vary any condition to which the accreditation of such a vocational course is subject; or
- (c) impose additional conditions on the accreditation of such a vocational course.

(2) The Board may not withdraw accreditation from a vocational course except on the following grounds:

- (a) that the course is no longer of sufficient quality to warrant accreditation;
- (b) that the course no longer complies, or the resources of the education or training provider to conduct the course no longer comply, with the relevant guidelines;
- (c) that the education or training provider concerned:
  - (i) requests accreditation to be withdrawn in respect of the course; or

- (ii) no longer exists; or
- (iii) no longer has the resources to conduct the course in a competent manner; or
- (iv) has contravened this Act, the regulations or a condition to which accreditation of the course is subject; or
- (v) has contravened a code of practice, in force under Part 7 of the Fair Trading Act 1987, relevant to the conduct of the course.

### **Decisions generally**

14. (1) Before the Board makes a decision under this Division:

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned and on any relevant authority; and
- (b) it must give the education or training provider and any relevant authority a reasonable opportunity to make representations to the Board in relation to the proposed decision.

(2) In making a decision under this Division, the Board must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

(3) The Board must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the education or training provider concerned and on any relevant authority.

### **Division 3 - Accreditation by authorised accrediting bodies**

#### **Accreditation**

15. (1) An authorised accrediting body may, on the application of an education or training provider, accredit any vocational course conducted by the provider.

(2) An application for accreditation:

- (a) must specify the vocational course or courses to which it relates; and
- (b) must specify the address of the premises in or from which each such course is conducted; and

- (c) must be in such form, and must be accompanied by such fee, as the authorised accrediting body may, in accordance with its authority, determine.

(3) Accreditation may be granted unconditionally or subject to such conditions (which may be imposed when accreditation is granted or at any time thereafter) as the authorised accrediting body may, in accordance with its authority, determine.

(4) Without limiting the generality of subsection (3), accreditation may be granted subject to conditions:

- (a) specifying the period for which the accreditation is to remain in force; and
- (b) requiring the payment of fees to the authorised accrediting body in respect of the accreditation.

(5) An authorised accrediting body may not refuse to accredit a vocational course except on the following grounds:

- (a) that the education or training provider concerned does not have the resources to conduct the course in a competent manner;
- (b) that the course is not of sufficient quality to warrant accreditation;
- (c) that the course does not, or the resources of the education or training provider to conduct the course do not, comply with the relevant guidelines;
- (d) that the accreditation of such a course is beyond the body's authority to accredit courses.

(6) If the conditions of its authority so permit, an authorised accrediting body that is also an education or training provider may, in accordance with this section, accredit vocational courses conducted by it.

#### **Withdrawal of accreditation**

16. (1) An authorised accrediting body may, on its own motion or on the application of any person:

- (a) withdraw accreditation from any vocational course in respect of which it has granted accreditation; or
- (b) revoke or vary any condition to which the accreditation of such a vocational course is subject; or

- (c) impose additional conditions on the accreditation of such a vocational course.

(2) An authorised accrediting body may not withdraw accreditation from a vocational course except on such of the grounds referred to in section 13 (2) as are specified in its authority.

(3) Nothing in this section prevents an authorised accrediting body that is also an education or training provider from withdrawing accreditation from a vocational course conducted by it on any ground it considers appropriate.

### **Decisions generally**

17. (1) Before an authorised accrediting body makes a decision under this Division:

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned, on the Board and on any relevant authority; and
- (b) it must give the education or training provider, the Board and any relevant authority a reasonable opportunity to make representations to the body in relation to the proposed decision.

(2) In making a decision under this Division, an authorised accrediting body must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

(3) An authorised accrediting body must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the education or training provider concerned, on the Board and on any relevant authority.

### **Division 4 - General**

#### **Advertising etc.**

18. (1) A person must not advertise or otherwise represent:

- (a) that a particular vocational course that is, has been or is to be conducted by that or any other person or body is, has been or is to be accredited, endorsed or otherwise approved (however expressed); or

- (b) that vocational courses generally that are, have been or are to be conducted by that or any other person are, have been or are to be so accredited, endorsed or approved,

unless the person includes in the advertisement or representation the name of the person or body by which the accreditation, endorsement or approval has been or is to be given.

Maximum penalty: 10 penalty units.

(2) A person must not falsely advertise or otherwise falsely represent:

- (a) that a particular vocational course that is, has been or is to be conducted by that or any other person or body is, has been or is to be accredited under this Act; or
- (b) that vocational courses generally that are, have been or are to be conducted by that or any other person or body are, have been or are to be so accredited.

Maximum penalty: 10 penalty units.

#### **Notification of change of name or address**

19. An education or training provider that conducts an accredited vocational course is to cause notice to be given to the Board of any change in the name under which, or in the address of the premises in or from which, it conducts any such course.

#### **Register of accredited courses**

20. The Board is to maintain a register in which the following particulars are to be recorded:

- (a) the name and address of each education or training provider by which accredited vocational courses are conducted;
- (b) the title of each accredited vocational course conducted by each such education or training provider;
- (c) the address of the premises in or from which each such vocational course is conducted by each such education or training provider.

#### **Evidentiary certificates**

21. A certificate that is signed by the General Manager and that certifies that on a specified date or during a specified period:

- (a) a specified person or body was or was not the holder of an authority; or
- (b) a specified vocational course was or was not accredited in relation to a specified education or training provider; or
- (c) a specified authority, or the accreditation of a specified vocational course, was or was not subject to specified conditions,

is admissible in any proceedings and is evidence of the fact or facts so certified.

### **Transitional provisions**

22. (1) A vocational course to which accreditation is given is an accredited course (in respect of any person who was undertaking the course immediately before accreditation was given) even though the course was not an accredited course when the person began the course.

(2) A vocational course from which accreditation is withdrawn continues to be an accredited course (in respect of any person who, in the opinion of the Board, had substantially completed the course before accreditation was withdrawn) until the person completes, fails or withdraws from the course.

(3) A vocational course that has been accredited by an authorised accrediting body does not cease to be an accredited course merely because the body's authority to accredit courses is subsequently revoked.

(4) A vocational course does not cease to be an accredited course merely because there is a change in the name of the course or in the name of the education or training provider by which the course is conducted.

## **PART 4 - ENFORCEMENT**

### **Inspectors**

23. (1) The Board may appoint any of its officers to be inspectors for the purposes of this Act.

(2) A certificate of identification, in such form as may be approved by the Minister, is to be issued to each inspector.

**Powers of inspectors**

24. (1) An inspector:

- (a) may enter the premises of any education or training provider in respect of which a vocational course is accredited under this Act; and
- (b) may inspect the premises, any documents found on the premises and the conduct of any vocational course at the premises,

for the purpose of ascertaining whether or not the provisions of this Act are being complied with.

(2) The powers conferred by this section may be exercised only during the ordinary operating hours of the education or training provider concerned and may not be exercised in any part of premises that is used for residential purposes.

(3) In exercising the powers conferred by this section, an inspector:

- (a) must, if requested to do so by any person on the premises, produce his or her certificate of identification for inspection by that person; and
- (b) must avoid, as far as practicable, doing anything that is likely to impede the conduct of any vocational course at the premises.

**Obstruction of inspectors**

25. A person must not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act.

Maximum penalty: 10 penalty units.

**False or misleading information**

26. A person must not, in or in connection with any application under this Act, make any statement that the person knows to be false or misleading.

Maximum penalty: 10 penalty units.

**PART 5 - MISCELLANEOUS**

**Service of documents**

27. (1) A document may be served on the Board by leaving it at, or by sending it by post to:



- (a) the office of the Board; or
  - (b) if it has more than one office - any one of its offices.
- (2) A document required or permitted by or under this Act to be served on a person may be served:
- (a) on a natural person - by delivering it to the person personally or by leaving it at, or by sending it by post to, the address of the place of residence or business of the person last known to the person serving the document; or
  - (b) on a corporation - by leaving it at, or by sending it by post to, the head office, a registered office or a principal office of the corporation.
- (3) Nothing in this section:
- (a) affects the operation of any other Act or law that authorises the service of a document in any other way; or
  - (b) affects the power of a court to authorise service of a document in any other way.

#### **Limitation of liability**

28. No matter or thing done or omitted by the Board, by any member of the Board, by any officer of the Board or by any person acting under the direction of the Board subjects a member of the Board, an officer of the Board or a person so acting personally to any action, liability, claim or demand if the matter or thing was done or omitted in good faith for the purpose of executing this Act.

#### **Annual reports**

29. (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Board is to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister is to lay the report, or to cause it to be laid, before both Houses of Parliament as soon as practicable after receiving it.

#### **Recovery of fees**

30. Any fee payable to the Board under this Act may be recovered, as a debt, in any court of competent jurisdiction.

### **Proceedings for offences**

31. 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.

### **Act binds Crown**

32. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

### **Regulations**

33. (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 and, in particular, for or with respect to:

- (a) the custody and use of the seal of the Board; and
- (b) applications under this Act; and
- (c) fees payable under this Act; and
- (d) forms to be used under this Act; and
- (e) notices to be served under this Act; and
- (f) information to be supplied to the Board by education or training providers; and
- (g) records to be kept by education or training providers in relation to persons undertaking accredited vocational courses; and
- (h) certificates to be issued under this Act to education or training providers that conduct accredited vocational courses; and
- (i) certificates to be issued under this Act to persons who undertake or complete accredited vocational courses.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

### **Amendment of Technical and Further Education Act 1974 No. 72**

34. The Technical and Further Education Act 1974 is amended by omitting Part 4.

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

(Sec. 5)

**PART 1 - THE MEMBERS OF THE BOARD**

**General Manager may appoint deputy**

1. (1) The General Manager may, by instrument in writing, appoint a person to act as his or her deputy.

(2) A deputy appointed under this clause, while so appointed, has all the functions of the General Manager and is to be taken to be the General Manager.

(3) The appointment of a deputy under this clause does not prevent the General Manager from exercising his or her functions as General Manager.

**Acting members and acting Chairperson**

2. (1) The Minister may, from time to time, appoint a person to act in the office of a part-time member of the Board during the illness or absence of the member, and the person, while so acting, has all the functions of the member and is to be taken to be a member of the Board.

(2) The Minister may, from time to time, appoint a part-time member of the Board to act in the office of Chairperson of the Board during the illness or absence of the Chairperson, and the member, while so acting, has all the functions of the Chairperson and is to be taken to be the Chairperson.

(3) The Minister may, at any time, remove a person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

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

(5) For the purposes of this clause, a vacancy in the office of a part-time member of the Board or of the Chairperson of the Board is to be taken to be an absence from office of the member or Chairperson.

**Terms of office**

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

**Remuneration of part-time members**

4. A part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of part-time member**

5. (1) The office of a part-time member of the Board 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
- (e) is absent from 4 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 Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been 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

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

- (g) becomes a mentally incapacitated person; or
- (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove a part-time member of the Board from office at any time.

**Filling of vacancy in office of part-time member**

6. If the office of a part-time member of the Board becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**Vacancy in office of Chairperson**

7. (1) The office of Chairperson of the Board becomes vacant if the Chairperson:

- (a) is removed from office by the Minister; or
- (b) resigns the office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member of the Board.

(2) The Minister may remove the Chairperson of the Board from office at any time.

**Disclosure of pecuniary interests**

8. (1) A member of the Board:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

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

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

(2) A disclosure by a member of the Board at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) Particulars of any disclosure made under this clause are to be recorded by the members of the Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the members of the Board.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the Board otherwise determine:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the members of the Board under subclause (4), a member of the Board who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other members of the Board for the purpose of making the determination; or
- (b) take part in the making by the other members of the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

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

**Effect of certain other Acts**

9. (1) Part 2 of the Public Sector Management Act 1988 does not apply to the appointment of a part-time member of the Board.

(2) If by or under any other Act provision is made:

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

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

(3) The office of a part-time member of the Board is not, for the purposes of any Act, an office or place of profit under the Crown.

**Proof of certain matters not required**

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

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

**PART 2 - THE PROCEDURE OF THE BOARD**

**General procedure**

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

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

**Quorum**

12. The quorum for a meeting of the Board is 6 members.

**Presiding member**

13. (1) The Chairperson of the Board (or, in the absence of the Chairperson, another part-time member of the Board elected to chair the meeting by the members of the Board present) is to preside at a meeting of the Board.

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

**Voting**

14. 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.

**Transaction of business outside meetings or by telephone etc.**

15. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members of the Board (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson of the Board and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.



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

(5) Papers may be circulated among members of the Board for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

**Minutes**

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

**First meeting of the Board**

17. The Minister is to call the first meeting of the Board at such time, and in such manner, as the Minister considers appropriate.

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[*Minister's second reading speech made in -  
Legislative Assembly on 20 November 1990  
Legislative Council on 30 November 1990 a.m.*]

















SECOND PRINT

**VOCATIONAL EDUCATION AND TRAINING ACCREDITATION  
BILL 1990**

NEW SOUTH WALES



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*Vocational Education and Training Accreditation 1990*

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

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*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, , 1990*

NEW SOUTH WALES



**Act No. , 1990**

An Act to establish the Vocational Education and Training Accreditation Board and to define its functions; to provide for the accreditation of vocational courses; and to amend the Technical and Further Education Act 1974.

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

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Vocational Education and Training Accreditation Act 1990.

**Commencement**

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

**Objects**

3. The objects of this Act are:

- (a) to provide for the accreditation of courses of vocational education and training conducted within New South Wales; and
- (b) to promote consistency of standards in vocational education and training; and
- (c) to encourage the recognition of courses of vocational education and training that are accredited under this Act.

**Definitions**

4. (1) In this Act:

"**accredited vocational course**" means a vocational course that is for the time being accredited under this Act;

"**advisory committee**" means an advisory committee established under this Act;

"**authorised accrediting body**" means a person or body (other than the Board) that is authorised under this Act to accredit vocational courses;

"**authority**" means an authority under this Act under which a person or body is authorised to accredit vocational courses;

"**Board**" means the Vocational Education and Training Accreditation Board constituted by this Act;

"**education or training provider**" means a person or body that conducts vocational courses;

"**General Manager**" means the General Manager of the Board;

**"inspector"** means an officer of the Board who is for the time being appointed as an inspector for the purposes of this Act;

**"relevant authority"** means:

- (a) in the case of a vocational course that relates to a declared trade or declared calling (within the meaning of the Industrial and Commercial Training Act 1989) - the Industrial and Commercial Training Council; and
- (b) in the case of a vocational course that relates to a trade or calling (whether or not a declared trade or declared calling within the meaning of the Industrial and Commercial Training Act 1989) - a person or body prescribed by the regulations in relation to that course;

**"relevant guidelines"**, in relation to a vocational course, means guidelines in force under this Act in relation to that course;

**"vocational course"** means a course or proposed course of vocational education or vocational training, but does not include:

- (a) a course of studies (being a course of studies that leads to a degree) conducted by an official university or other corporation, body or institution authorised under the Higher Education Act 1988 to confer degrees; or
- (b) an advanced education course (being a course of studies that leads to a degree) approved under that Act.

(2) In this Act, a reference to a course conducted by an education or training provider includes a reference to a course to be conducted by the provider.

(3) 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 - CONSTITUTION AND FUNCTIONS OF THE BOARD**

### **Constitution of the Board**

5. (1) There is constituted by this Act a body corporate under the name of the Vocational Education and Training Accreditation Board.

(2) The Board is to comprise 10 members, consisting of:

- (a) the General Manager; and
- (b) 9 part-time members appointed by the Minister.

(3) Of the part-time members:

- (a) one is to be a person nominated by the Council of Technical and Further Education; and
- (b) one is to be a person nominated by the Minister for School Education and Youth Affairs; and
- (c) the remainder are to be persons having such qualifications or experience in relation to:
  - (i) the provision or accreditation of vocational education or training; or
  - (ii) industry or commerce; or
  - (iii) industrial relations,as the Minister considers appropriate.

(4) If a nomination referred to in subsection (3) (a) or (b) is not made within such time as the Minister allows, the Minister may appoint any person whom he or she considers to be suitably qualified in place of a person required to be so nominated.

(5) At least 2 of the part-time members referred to in subsection (3) (c) are to be members of the Industrial and Commercial Training Council.

(6) One of the part-time members of the Board is, by the instrument of his or her appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board.

(7) Schedule 1 has effect with respect to the members and procedure of the Board.

#### **Objects and functions of the Board**

6. (1) The objects of the Board are:

- (a) to accredit, and to authorise other persons and bodies to accredit, vocational courses; and
- (b) to establish guidelines for the accreditation of vocational courses; and

- (c) to advise the Minister on matters concerning the accreditation of vocational courses; and
  - (d) to liaise with licensing authorities and other bodies (both in New South Wales and elsewhere) in connection with the accreditation of vocational courses; and
  - (e) to investigate, and to report on, matters concerning the accreditation of vocational courses.
- (2) The Board:
- (a) has such functions as are necessary or convenient to enable it to achieve its objects and to promote the objects of this Act; and
  - (b) has such other functions as are conferred or imposed on it by or under this or any other Act or law; and
  - (c) is, in the exercise of its functions, subject to the control and direction of the Minister; and
  - (d) is, for the purposes of any Act, a statutory body representing the Crown.

#### **Staff of the Board**

7. (1) A General Manager, 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 or facilities of a government department, an administrative office or a public or local authority.

(3) For the purposes of this Act, a person who is employed under this section or whose services are made use of under this section is an officer of the Board.

#### **Advisory committees**

8. (1) The Board may establish advisory committees to assist it in the exercise of its functions.

(2) Any or all of the members of an advisory committee may be persons who are not members of the Board.

(3) Without limiting the generality of subsection (2), the membership of an advisory committee may comprise the members of any body, including any body in the nature of an industry training committee, whether established in New South Wales or elsewhere.

(4) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

#### **Delegation by the Board**

9. The Board may delegate to a member of the Board, to an advisory committee or to an officer of the Board the exercise of any of its functions, other than this power of delegation.

### **PART 3 - ACCREDITATION OF VOCATIONAL COURSES**

#### **Division 1 - Guidelines and authorities**

##### **Guidelines**

10. (1) The Board may from time to time issue guidelines as to:

- (a) course programs; and
- (b) course nomenclature; and
- (c) accreditation procedures; and
- (d) financial and ethical standards to be satisfied by education or training providers; and
- (e) conditions to be imposed on accreditation,

to be adopted in relation to the accreditation of vocational courses.

(2) Copies of each guideline issued under this section are to be kept at the office of the Board and are to be made available for public inspection free of charge, and for purchase, during ordinary office hours.

##### **Authorities**

11. (1) The Board may, on the application of any person or body, grant an authority to the person or body to accredit vocational courses, whether or not those courses are conducted by that person or body.

(2) An application for an authority must be in such form, and must be accompanied by such fee, as the Board may determine.



- (3) An authority may be granted:
  - (a) unconditionally or subject to such conditions (which may be imposed when the authority is granted or at any time thereafter) as the Board may determine; and
  - (b) in respect of vocational courses generally or in respect of specified vocational courses or specified classes of vocational courses.
- (4) Without limiting the generality of subsection (3), an authority may be granted subject to conditions:
  - (a) specifying the period for which the authority is to remain in force; and
  - (b) requiring the payment of fees to the Board in respect of the accreditation of vocational courses; and
  - (c) regulating the fees that may be charged by the holder of the authority in respect of the accreditation of vocational courses.
- (5) The Board may:
  - (a) revoke an authority; or
  - (b) revoke or vary any condition to which an authority is subject; or
  - (c) impose additional conditions on the authority.

## **Division 2 - Accreditation by the Board**

### **Accreditation**

- 12. (1) The Board may, on the application of an education or training provider, accredit any vocational course conducted by the provider.
- (2) An application for accreditation:
  - (a) must specify the vocational course or courses to which it relates; and
  - (b) must specify the address of the premises in or from which each such course is conducted; and
  - (c) must be in such form, and must be accompanied by such fee, as the Board may determine.
- (3) Accreditation may be granted unconditionally or subject to such conditions (which may be imposed when accreditation is granted or at any time thereafter) as the Board may determine.

(4) Without limiting the generality of subsection (3), accreditation may be granted subject to conditions:

- (a) specifying the period for which the accreditation is to remain in force; and
- (b) requiring the payment of fees to the Board in respect of the accreditation.

(5) The Board may not refuse to accredit a vocational course except on the following grounds:

- (a) that the education or training provider concerned does not have the resources to conduct the course in a competent manner;
- (b) that the course is not of sufficient quality to warrant accreditation;
- (c) that the course does not, or the resources of the education or training provider to conduct the course do not, comply with the relevant guidelines.

#### **Withdrawal of accreditation**

13. (1) The Board may, on its own motion or on the application of any person or body:

- (a) withdraw accreditation from any vocational course conducted by an education or training provider (whether accreditation has been granted by the Board or by an authorised accrediting body); or
- (b) revoke or vary any condition to which the accreditation of such a vocational course is subject; or
- (c) impose additional conditions on the accreditation of such a vocational course.

(2) The Board may not withdraw accreditation from a vocational course except on the following grounds:

- (a) that the course is no longer of sufficient quality to warrant accreditation;
- (b) that the course no longer complies, or the resources of the education or training provider to conduct the course no longer comply, with the relevant guidelines;
- (c) that the education or training provider concerned:
  - (i) requests accreditation to be withdrawn in respect of the course; or

- (ii) no longer exists; or
- (iii) no longer has the resources to conduct the course in a competent manner; or
- (iv) has contravened this Act, the regulations or a condition to which accreditation of the course is subject; or
- (v) has contravened a code of practice, in force under Part 7 of the Fair Trading Act 1987, relevant to the conduct of the course.

**Decisions generally**

14. (1) Before the Board makes a decision under this Division:

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned and on any relevant authority; and
- (b) it must give the education or training provider and any relevant authority a reasonable opportunity to make representations to the Board in relation to the proposed decision.

(2) In making a decision under this Division, the Board must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

(3) The Board must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the education or training provider concerned and on any relevant authority.

**Division 3 - Accreditation by authorised accrediting bodies**

**Accreditation**

15. (1) An authorised accrediting body may, on the application of an education or training provider, accredit any vocational course conducted by the provider.

(2) An application for accreditation:

- (a) must specify the vocational course or courses to which it relates; and
- (b) must specify the address of the premises in or from which each such course is conducted; and

- (c) must be in such form, and must be accompanied by such fee, as the authorised accrediting body may, in accordance with its authority, determine.

(3) Accreditation may be granted unconditionally or subject to such conditions (which may be imposed when accreditation is granted or at any time thereafter) as the authorised accrediting body may, in accordance with its authority, determine.

(4) Without limiting the generality of subsection (3), accreditation may be granted subject to conditions:

- (a) specifying the period for which the accreditation is to remain in force; and
- (b) requiring the payment of fees to the authorised accrediting body in respect of the accreditation.

(5) An authorised accrediting body may not refuse to accredit a vocational course except on the following grounds:

- (a) that the education or training provider concerned does not have the resources to conduct the course in a competent manner;
- (b) that the course is not of sufficient quality to warrant accreditation;
- (c) that the course does not, or the resources of the education or training provider to conduct the course do not, comply with the relevant guidelines;
- (d) that the accreditation of such a course is beyond the body's authority to accredit courses.

(6) If the conditions of its authority so permit, an authorised accrediting body that is also an education or training provider may, in accordance with this section, accredit vocational courses conducted by it.

#### **Withdrawal of accreditation**

16. (1) An authorised accrediting body may, on its own motion or on the application of any person:

- (a) withdraw accreditation from any vocational course in respect of which it has granted accreditation; or
- (b) revoke or vary any condition to which the accreditation of such a vocational course is subject; or

(c) impose additional conditions on the accreditation of such a vocational course.

(2) An authorised accrediting body may not withdraw accreditation from a vocational course except on such of the grounds referred to in section 13 (2) as are specified in its authority.

(3) Nothing in this section prevents an authorised accrediting body that is also an education or training provider from withdrawing accreditation from a vocational course conducted by it on any ground it considers appropriate.

#### **Decisions generally**

17. (1) Before an authorised accrediting body makes a decision under this Division:

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned, on the Board and on any relevant authority; and
- (b) it must give the education or training provider, the Board and any relevant authority a reasonable opportunity to make representations to the body in relation to the proposed decision.

(2) In making a decision under this Division, an authorised accrediting body must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

(3) An authorised accrediting body must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the education or training provider concerned, on the Board and on any relevant authority.

#### **Division 4 - General**

##### **Advertising etc.**

18. (1) A person must not advertise or otherwise represent:

- (a) that a particular vocational course that is, has been or is to be conducted by that or any other person or body is, has been or is to be accredited, endorsed or otherwise approved (however expressed); or

- (b) that vocational courses generally that are, have been or are to be conducted by that or any other person are, have been or are to be so accredited, endorsed or approved,

unless the person includes in the advertisement or representation the name of the person or body by which the accreditation, endorsement or approval has been or is to be given.

Maximum penalty: 10 penalty units.

(2) A person must not falsely advertise or otherwise falsely represent:

- (a) that a particular vocational course that is, has been or is to be conducted by that or any other person or body is, has been or is to be accredited under this Act; or
- (b) that vocational courses generally that are, have been or are to be conducted by that or any other person or body are, have been or are to be so accredited.

Maximum penalty: 10 penalty units.

#### **Notification of change of name or address**

19. An education or training provider that conducts an accredited vocational course is to cause notice to be given to the Board of any change in the name under which, or in the address of the premises in or from which, it conducts any such course.

#### **Register of accredited courses**

20. The Board is to maintain a register in which the following particulars are to be recorded:

- (a) the name and address of each education or training provider by which accredited vocational courses are conducted;
- (b) the title of each accredited vocational course conducted by each such education or training provider;
- (c) the address of the premises in or from which each such vocational course is conducted by each such education or training provider.

#### **Evidentiary certificates**

21. A certificate that is signed by the General Manager and that certifies that on a specified date or during a specified period:

- (a) a specified person or body was or was not the holder of an authority; or
- (b) a specified vocational course was or was not accredited in relation to a specified education or training provider; or
- (c) a specified authority, or the accreditation of a specified vocational course, was or was not subject to specified conditions,

is admissible in any proceedings and is evidence of the fact or facts so certified.

#### **Transitional provisions**

22. (1) A vocational course to which accreditation is given is an accredited course (in respect of any person who was undertaking the course immediately before accreditation was given) even though the course was not an accredited course when the person began the course.

(2) A vocational course from which accreditation is withdrawn continues to be an accredited course (in respect of any person who, in the opinion of the Board, had substantially completed the course before accreditation was withdrawn) until the person completes, fails or withdraws from the course.

(3) A vocational course that has been accredited by an authorised accrediting body does not cease to be an accredited course merely because the body's authority to accredit courses is subsequently revoked.

(4) A vocational course does not cease to be an accredited course merely because there is a change in the name of the course or in the name of the education or training provider by which the course is conducted.

### **PART 4 - ENFORCEMENT**

#### **Inspectors**

23. (1) The Board may appoint any of its officers to be inspectors for the purposes of this Act.

(2) A certificate of identification, in such form as may be approved by the Minister, is to be issued to each inspector.

**Powers of inspectors**

**24. (1) An inspector:**

- (a) may enter the premises of any education or training provider in respect of which a vocational course is accredited under this Act; and
- (b) may inspect the premises, any documents found on the premises and the conduct of any vocational course at the premises,

for the purpose of ascertaining whether or not the provisions of this Act are being complied with.

(2) The powers conferred by this section may be exercised only during the ordinary operating hours of the education or training provider concerned and may not be exercised in any part of premises that is used for residential purposes.

**(3) In exercising the powers conferred by this section, an inspector:**

- (a) must, if requested to do so by any person on the premises, produce his or her certificate of identification for inspection by that person; and
- (b) must avoid, as far as practicable, doing anything that is likely to impede the conduct of any vocational course at the premises.

**Obstruction of inspectors**

25. A person must not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act.

Maximum penalty: 10 penalty units.

**False or misleading information**

26. A person must not, in or in connection with any application under this Act, make any statement that the person knows to be false or misleading.

Maximum penalty: 10 penalty units.

**PART 5 - MISCELLANEOUS**

**Service of documents**

27. (1) A document may be served on the Board by leaving it at, or by sending it by post to:



- (a) the office of the Board; or
  - (b) if it has more than one office - any one of its offices.
- (2) A document required or permitted by or under this Act to be served on a person may be served:
- (a) on a natural person - by delivering it to the person personally or by leaving it at, or by sending it by post to, the address of the place of residence or business of the person last known to the person serving the document; or
  - (b) on a corporation - by leaving it at, or by sending it by post to, the head office, a registered office or a principal office of the corporation.
- (3) Nothing in this section:
- (a) affects the operation of any other Act or law that authorises the service of a document in any other way; or
  - (b) affects the power of a court to authorise service of a document in any other way.

#### **Limitation of liability**

28. No matter or thing done or omitted by the Board, by any member of the Board, by any officer of the Board or by any person acting under the direction of the Board subjects a member of the Board, an officer of the Board or a person so acting personally to any action, liability, claim or demand if the matter or thing was done or omitted in good faith for the purpose of executing this Act.

#### **Annual reports**

29. (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Board is to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister is to lay the report, or to cause it to be laid, before both Houses of Parliament as soon as practicable after receiving it.

#### **Recovery of fees**

30. Any fee payable to the Board under this Act may be recovered, as a debt, in any court of competent jurisdiction.

**Proceedings for offences**

31. 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.

**Act binds Crown**

32. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

**Regulations**

33. (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 and, in particular, for or with respect to:

- (a) the custody and use of the seal of the Board; and
- (b) applications under this Act; and
- (c) fees payable under this Act; and
- (d) forms to be used under this Act; and
- (e) notices to be served under this Act; and
- (f) information to be supplied to the Board by education or training providers; and
- (g) records to be kept by education or training providers in relation to persons undertaking accredited vocational courses; and
- (h) certificates to be issued under this Act to education or training providers that conduct accredited vocational courses; and
- (i) certificates to be issued under this Act to persons who undertake or complete accredited vocational courses.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Amendment of Technical and Further Education Act 1974 No. 72**

34. The Technical and Further Education Act 1974 is amended by omitting Part 4.

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

(Sec. 5)

**PART 1 - THE MEMBERS OF THE BOARD**

**General Manager may appoint deputy**

1. (1) The General Manager may, by instrument in writing, appoint a person to act as his or her deputy.

(2) A deputy appointed under this clause, while so appointed, has all the functions of the General Manager and is to be taken to be the General Manager.

(3) The appointment of a deputy under this clause does not prevent the General Manager from exercising his or her functions as General Manager.

**Acting members and acting Chairperson**

2. (1) The Minister may, from time to time, appoint a person to act in the office of a part-time member of the Board during the illness or absence of the member, and the person, while so acting, has all the functions of the member and is to be taken to be a member of the Board.

(2) The Minister may, from time to time, appoint a part-time member of the Board to act in the office of Chairperson of the Board during the illness or absence of the Chairperson, and the member, while so acting, has all the functions of the Chairperson and is to be taken to be the Chairperson.

(3) The Minister may, at any time, remove a person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

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

(5) For the purposes of this clause, a vacancy in the office of a part-time member of the Board or of the Chairperson of the Board is to be taken to be an absence from office of the member or Chairperson.

**Terms of office**

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

**Remuneration of part-time members**

4. A part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of part-time member**

5. (1) The office of a part-time member of the Board 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
- (e) is absent from 4 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 Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been 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

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

- (g) becomes a mentally incapacitated person; or
- (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove a part-time member of the Board from office at any time.

**Filling of vacancy in office of part-time member**

6. If the office of a part-time member of the Board becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**Vacancy in office of Chairperson**

7. (1) The office of Chairperson of the Board becomes vacant if the Chairperson:

- (a) is removed from office by the Minister; or
- (b) resigns the office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member of the Board.

(2) The Minister may remove the Chairperson of the Board from office at any time.

**Disclosure of pecuniary interests**

8. (1) A member of the Board:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

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

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

(2) A disclosure by a member of the Board at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) Particulars of any disclosure made under this clause are to be recorded by the members of the Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the members of the Board.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the Board otherwise determine:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the members of the Board under subclause (4), a member of the Board who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other members of the Board for the purpose of making the determination; or
- (b) take part in the making by the other members of the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

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

**Effect of certain other Acts**

9. (1) Part 2 of the Public Sector Management Act 1988 does not apply to the appointment of a part-time member of the Board.

(2) If by or under any other Act provision is made:

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

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

(3) The office of a part-time member of the Board is not, for the purposes of any Act, an office or place of profit under the Crown.

**Proof of certain matters not required**

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

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

**PART 2 - THE PROCEDURE OF THE BOARD**

**General procedure**

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

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

**Quorum**

12. The quorum for a meeting of the Board is 6 members.

**Presiding member**

13. (1) The Chairperson of the Board (or, in the absence of the Chairperson, another part-time member of the Board elected to chair the meeting by the members of the Board present) is to preside at a meeting of the Board.

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

**Voting**

14. 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.

**Transaction of business outside meetings or by telephone etc.**

15. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members of the Board (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson of the Board and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.



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

(5) Papers may be circulated among members of the Board for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

**Minutes**

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

**First meeting of the Board**

17. The Minister is to call the first meeting of the Board at such time, and in such manner, as the Minister considers appropriate.

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FIRST PRINT

**VOCATIONAL EDUCATION AND TRAINING ACCREDITATION  
BILL 1990**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The objects of this Bill are:

- (a) to establish the Vocational Education and Training Accreditation Board and to define its functions; and
- (b) to provide for the accreditation of vocational courses; and
- (c) to enact other provisions of a minor, consequential or ancillary nature.

References in this Bill to monetary penalties are expressed in penalty units. Under section 56 of the Interpretation Act 1987, 1 penalty unit is currently equivalent to \$100.

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**PART 1 - PRELIMINARY**

**Clause 1** specifies the short title of the proposed Act.

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

**Clause 3** specifies the objects of the proposed Act as being:

- (a) to provide for the accreditation of courses of vocational education and training conducted within New South Wales; and
- (b) to promote consistency of standards in vocational education and training; and
- (c) to encourage the recognition of courses of vocational education and training that are accredited under the proposed Act.

## *Vocational Education and Training Accreditation 1990*

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Clause 4 defines certain expressions (in particular, "authorised accrediting body", "Board", "education or training provider", "relevant authority", "relevant guidelines" and "vocational course") for the purposes of the proposed Act.

### **PART 2 - CONSTITUTION AND FUNCTIONS OF THE BOARD**

Clause 5 provides for the constitution of a Vocational Education and Training Accreditation Board that is to consist of 10 members, of whom one is to be a full-time General Manager and 9 are to be part-time members. One of the part-time members is to be the Chairperson of the Board.

Clause 6 sets out the objects and functions of the Board. The principal object of the Board is to be the accreditation of vocational courses conducted by education or training providers. The Board is to have such functions as are necessary or convenient to enable it to achieve its objects and to promote the objects of the proposed Act, is to be subject to the control and direction of the Minister and is, for the purposes of any Act, to be a statutory body representing the Crown.

Clause 7 provides for the employment, under the Public Sector Management Act 1988, of a General Manager and such other staff as are necessary to enable the Board to exercise its functions.

Clause 8 provides that the Board may establish advisory committees to assist it in the exercise of its functions. Any or all of the members of an advisory committee may be persons who are not members of the Board.

Clause 9 enables the Board to delegate its functions to any of its members, advisory committees or staff.

### **PART 3 - ACCREDITATION OF VOCATIONAL COURSES**

#### **Division 1 - Guidelines and authorities**

Clause 10 enables the Board to issue guidelines to be adopted in relation to the accreditation of vocational courses. Copies of these guidelines will be required to be publicly available.

Clause 11 enables the Board to authorise other persons and bodies to accredit courses. An authority will be unconditional or conditional and will be revocable by the Board.

#### **Division 2 - Accreditation by the Board**

Clause 12 enables the Board, on the application of an education or training provider, to accredit vocational courses conducted by the provider. Accreditation will be unconditional or conditional. The clause specifies that accreditation may not be refused except on certain specified grounds.

Clause 13 enables the Board to withdraw accreditation from any vocational course and to revoke or vary any condition to which the accreditation of a vocational course is subject. The clause specifies that accreditation may not be withdrawn except on certain specified grounds.

## *Vocational Education and Training Accreditation 1990*

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**Clause 14** requires the Board to notify the education or training provider concerned and any relevant authority of any decision it proposes to make under Division 2 and to give those bodies a reasonable opportunity to make representations to it in relation to the decision. The clause further requires the Board to have regard to any relevant guidelines and to any representations made to it in relation to the proposed decision. The clause further requires the Board to notify the education or training provider concerned and any relevant authority of any decision made by it under Division 2 and of its reasons for the decision.

### **Division 3 - Accreditation by authorised accrediting bodies**

**Clause 15** enables an authorised accrediting body, on the application of an education or training provider, to accredit vocational courses conducted by the provider. Accreditation will be unconditional or conditional. The clause specifies that accreditation may not be refused except on certain specified grounds.

**Clause 16** enables an authorised accrediting body to withdraw accreditation from any vocational course in respect of which it has granted accreditation and to revoke or vary any condition to which the accreditation of such a vocational course is subject. The clause specifies that accreditation may not be withdrawn except on certain specified grounds.

**Clause 17** requires an authorised accrediting body to notify the education or training provider concerned, the Board and any relevant authority of any decision it proposes to make under Division 3 and to give those bodies a reasonable opportunity to make representations to it in relation to the decision. The clause further requires an authorised accrediting body to have regard to any relevant guidelines and to any representations made to it in relation to the proposed decision. The clause further requires an authorised accrediting body to notify the education or training provider concerned, the Board and any relevant authority of any decision made by it under Division 3 and of its reasons for the decision.

### **Division 4 - General**

**Clause 18** prohibits a person from advertising that a vocational course is accredited, endorsed or approved without stating by whom the accreditation, endorsement or approval has been given and further prohibits a person from falsely advertising that a vocational course conducted by an educational establishment is accredited under the proposed Act. The maximum penalty for an offence under the proposed section will be 10 penalty units.

**Clause 19** requires an education or training provider that conducts an accredited vocational course to notify the Board of any change in the name under which, or in the address of the premises in or from which, it conducts any such course.

**Clause 20** requires the Board to maintain a register in which are to be recorded particulars of each accredited vocational course and of each education or training provider by which each such course is conducted.

**Clause 21** provides for the issue of evidentiary certificates by the General Manager of the Board. Such a certificate will be admissible in any proceedings and will constitute evidence of the fact or facts certified in it.

## *Vocational Education and Training Accreditation 1990*

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Clause 22 contains transitional provisions to cover certain situations. It provides that a vocational course to which accreditation is given is to be an accredited course in respect of persons who began the course before the accreditation was given; that a vocational course from which accreditation is withdrawn is to continue to be an accredited course in respect of persons who had substantially completed the course before accreditation was withdrawn; that accreditation of a vocational course is not to be affected by the revocation of an education or training provider's authority to accredit vocational courses; and that the accreditation of a vocational course is not to be affected by any change in the name of the course or in the name of the education or training provider by which it is conducted.

### **PART 4 - ENFORCEMENT**

Clause 23 enables the Board to appoint any of its officers to be inspectors for the purposes of the proposed Act and requires the Board to issue its inspectors with certificates of identification.

Clause 24 enables an inspector to enter and inspect the premises of an education or training provider in respect of which a vocational course is accredited for the purpose of ascertaining whether or not the provisions of the proposed Act are being complied with. The power may be exercised only during the ordinary business hours of the education or training provider concerned and in respect of premises other than residential premises. An inspector will be required to produce his or her certificate of identification on demand and to avoid disturbing the conduct of any vocational course.

Clause 25 prohibits a person from assaulting, delaying, obstructing, hindering or impeding an inspector. The maximum penalty for an offence under the proposed section will be 10 penalty units.

Clause 26 prohibits a person from making false or misleading statements in or in connection with any application under the proposed Act. The maximum penalty for an offence under the proposed section will be 10 penalty units.

### **PART 5 - MISCELLANEOUS**

Clause 27 provides for the service of documents on the Board and on other persons.

Clause 28 exempts members of the Board, officers of the Board and persons acting under the direction of the Board from personal liability for any matter or thing done or omitted by the Board or by them if the matter or thing was done or omitted in good faith and for the purpose of executing the proposed Act.

Clause 29 requires the Board to prepare an annual report on its work and activities. This report will be required to be tabled in Parliament.

Clause 30 enables any fee payable to the Board under the proposed Act to be recovered, as a debt, in any court of competent jurisdiction.

Clause 31 provides that proceedings for an offence against the proposed Act are to be dealt with summarily before a Local Court.

*Vocational Education and Training Accreditation 1990*

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**Clause 32** provides for the proposed Act to bind the Crown.

**Clause 33** enables the Governor to make regulations for the purposes of the proposed Act.

**Clause 34** contains a consequential amendment to the Technical and Further Education Act 1974. The amendment repeals Part 4 (Vocational Instruction) of that Act.

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

Part 1 (The Members of the Board) contains the following clauses:

- (a) General Manager may appoint deputy (clause 1);
- (b) acting members and acting Chairperson (clause 2);
- (c) terms of office (clause 3);
- (d) remuneration of part-time members (clause 4);
- (e) vacancy in office of part-time member (clause 5);
- (f) filling of vacancy in office of part-time member (clause 6);
- (g) vacancy in office of Chairperson (clause 7);
- (h) disclosure of pecuniary interests (clause 8);
- (i) effect of certain other Acts (clause 9);
- (j) proof of certain matters not required (clause 10).

Part 2 (The Procedure of the Board) contains the following clauses:

- (a) general procedure (clause 11);
  - (b) quorum (clause 12);
  - (c) presiding member (clause 13);
  - (d) voting (clause 14);
  - (e) transaction of business outside meetings or by telephone etc. (clause 15);
  - (f) minutes (clause 16);
  - (g) first meeting of the Board (clause 17).
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FIRST PRINT

**VOCATIONAL EDUCATION AND TRAINING ACCREDITATION  
BILL 1990**

NEW SOUTH WALES



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

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**VOCATIONAL EDUCATION AND TRAINING ACCREDITATION  
BILL 1990**

NEW SOUTH WALES



No. , 1990

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**A BILL FOR**

An Act to establish the Vocational Education and Training Accreditation Board and to define its functions; to provide for the accreditation of vocational courses; and to amend the Technical and Further Education Act 1974.

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

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Vocational Education and Training Accreditation Act 1990.

**Commencement**

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

**Objects**

3. The objects of this Act are:

- (a) to provide for the accreditation of courses of vocational education and training conducted within New South Wales; and
- (b) to promote consistency of standards in vocational education and training; and
- (c) to encourage the recognition of courses of vocational education and training that are accredited under this Act.

**Definitions**

4. (1) In this Act:

"**accredited vocational course**" means a vocational course that is for the time being accredited under this Act;

"**advisory committee**" means an advisory committee established under this Act;

"**authorised accrediting body**" means a person or body (other than the Board) that is authorised under this Act to accredit vocational courses;

"**authority**" means an authority under this Act under which a person or body is authorised to accredit vocational courses;

"**Board**" means the Vocational Education and Training Accreditation Board constituted by this Act;

"**education or training provider**" means a person or body that conducts vocational courses;

"**General Manager**" means the General Manager of the Board;

"**inspector**" means an officer of the Board who is for the time being appointed as an inspector for the purposes of this Act;

"**relevant authority**" means:

- (a) in the case of a vocational course that relates to a declared trade or declared calling (within the meaning of the Industrial and Commercial Training Act 1989) - the Industrial and Commercial Training Council; and
- (b) in the case of a vocational course that relates to a trade or calling (whether or not a declared trade or declared calling within the meaning of the Industrial and Commercial Training Act 1989) - a person or body prescribed by the regulations in relation to that course;

"**relevant guidelines**", in relation to a vocational course, means guidelines in force under this Act in relation to that course;

"**vocational course**" means a course or proposed course of vocational education or vocational training, but does not include:

- (a) a course of studies (being a course of studies that leads to a degree) conducted by an official university or other corporation, body or institution authorised under the Higher Education Act 1988 to confer degrees; or
- (b) an advanced education course (being a course of studies that leads to a degree) approved under that Act.

(2) In this Act, a reference to a course conducted by an education or training provider includes a reference to a course to be conducted by the provider.

(3) 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 - CONSTITUTION AND FUNCTIONS OF THE BOARD**

### **Constitution of the Board**

5. (1) There is constituted by this Act a body corporate under the name of the Vocational Education and Training Accreditation Board.

- (2) The Board is to comprise 10 members, consisting of:
  - (a) the General Manager; and
  - (b) 9 part-time members appointed by the Minister.
- (3) Of the part-time members:
  - (a) one is to be a person nominated by the Council of Technical and Further Education; and
  - (b) one is to be a person nominated by the Minister for School Education and Youth Affairs; and
  - (c) the remainder are to be persons having such qualifications or experience in relation to:
    - (i) the provision or accreditation of vocational education or training; or
    - (ii) industry or commerce; or
    - (iii) industrial relations,as the Minister considers appropriate.
- (4) If a nomination referred to in subsection (3) (a) or (b) is not made within such time as the Minister allows, the Minister may appoint any person whom he or she considers to be suitably qualified in place of a person required to be so nominated.
- (5) At least 2 of the part-time members referred to in subsection (3) (c) are to be members of the Industrial and Commercial Training Council.
- (6) One of the part-time members of the Board is, by the instrument of his or her appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board.
- (7) Schedule 1 has effect with respect to the members and procedure of the Board.

#### **Objects and functions of the Board**

6. (1) The objects of the Board are:
  - (a) to accredit, and to authorise other persons and bodies to accredit, vocational courses; and
  - (b) to establish guidelines for the accreditation of vocational courses; and

- (c) to advise the Minister on matters concerning the accreditation of vocational courses; and
  - (d) to liaise with licensing authorities and other bodies (both in New South Wales and elsewhere) in connection with the accreditation of vocational courses; and
  - (e) to investigate, and to report on, matters concerning the accreditation of vocational courses.
- (2) The Board:
- (a) has such functions as are necessary or convenient to enable it to achieve its objects and to promote the objects of this Act; and
  - (b) has such other functions as are conferred or imposed on it by or under this or any other Act or law; and
  - (c) is, in the exercise of its functions, subject to the control and direction of the Minister; and
  - (d) is, for the purposes of any Act, a statutory body representing the Crown.

#### **Staff of the Board**

7. (1) A General Manager, 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 or facilities of a government department, an administrative office or a public or local authority.

(3) For the purposes of this Act, a person who is employed under this section or whose services are made use of under this section is an officer of the Board.

#### **Advisory committees**

8. (1) The Board may establish advisory committees to assist it in the exercise of its functions.

(2) Any or all of the members of an advisory committee may be persons who are not members of the Board.

(3) Without limiting the generality of subsection (2), the membership of an advisory committee may comprise the members of any body, including any body in the nature of an industry training committee, whether established in New South Wales or elsewhere.

(4) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

#### **Delegation by the Board**

9. The Board may delegate to a member of the Board, to an advisory committee or to an officer of the Board the exercise of any of its functions, other than this power of delegation.

### **PART 3 - ACCREDITATION OF VOCATIONAL COURSES**

#### **Division 1 - Guidelines and authorities**

##### **Guidelines**

10. (1) The Board may from time to time issue guidelines as to:

- (a) course programs; and
- (b) course nomenclature; and
- (c) accreditation procedures; and
- (d) conditions to be imposed on accreditation,

to be adopted in relation to the accreditation of vocational courses.

(2) Copies of each guideline issued under this section are to be kept at the office of the Board and are to be made available for public inspection free of charge, and for purchase, during ordinary office hours.

##### **Authorities**

11. (1) The Board may, on the application of any person or body, grant an authority to the person or body to accredit vocational courses, whether or not those courses are conducted by that person or body.

(2) An application for an authority must be in such form, and must be accompanied by such fee, as the Board may determine.

(3) An authority may be granted:

- (a) unconditionally or subject to such conditions (which may be imposed when the authority is granted or at any time thereafter) as the Board may determine; and



- (b) in respect of vocational courses generally or in respect of specified vocational courses or specified classes of vocational courses.
- (4) Without limiting the generality of subsection (3), an authority may be granted subject to conditions:
  - (a) specifying the period for which the authority is to remain in force; and
  - (b) requiring the payment of fees to the Board in respect of the accreditation of vocational courses; and
  - (c) regulating the fees that may be charged by the holder of the authority in respect of the accreditation of vocational courses.
- (5) The Board may:
  - (a) revoke an authority; or
  - (b) revoke or vary any condition to which an authority is subject; or
  - (c) impose additional conditions on the authority.

## **Division 2 - Accreditation by the Board**

### **Accreditation**

12. (1) The Board may, on the application of an education or training provider, accredit any vocational course conducted by the provider.
- (2) An application for accreditation:
    - (a) must specify the vocational course or courses to which it relates; and
    - (b) must specify the address of the premises in or from which each such course is conducted; and
    - (c) must be in such form, and must be accompanied by such fee, as the Board may determine.
  - (3) Accreditation may be granted unconditionally or subject to such conditions (which may be imposed when accreditation is granted or at any time thereafter) as the Board may determine.
  - (4) Without limiting the generality of subsection (3), accreditation may be granted subject to conditions:
    - (a) specifying the period for which the accreditation is to remain in force; and

(b) requiring the payment of fees to the Board in respect of the accreditation.

(5) The Board may not refuse to accredit a vocational course except on the following grounds:

- (a) that the education or training provider concerned does not have the resources to conduct the course in a competent manner;
- (b) that the course is not of sufficient quality to warrant accreditation;
- (c) that the course does not, or the resources of the education or training provider to conduct the course do not, comply with the relevant guidelines.

#### **Withdrawal of accreditation**

13. (1) The Board may, on its own motion or on the application of any person or body:

- (a) withdraw accreditation from any vocational course conducted by an education or training provider (whether accreditation has been granted by the Board or by an authorised accrediting body); or
- (b) revoke or vary any condition to which the accreditation of such a vocational course is subject; or
- (c) impose additional conditions on the accreditation of such a vocational course.

(2) The Board may not withdraw accreditation from a vocational course except on the following grounds:

- (a) that the course is no longer of sufficient quality to warrant accreditation;
- (b) that the course no longer complies, or the resources of the education or training provider to conduct the course no longer comply, with the relevant guidelines;
- (c) that the education or training provider concerned:
  - (i) requests accreditation to be withdrawn in respect of the course; or
  - (ii) no longer exists; or
  - (iii) no longer has the resources to conduct the course in a competent manner; or

- (iv) has contravened this Act, the regulations or a condition to which accreditation of the course is subject; or
- (v) has contravened a code of practice, in force under Part 7 of the Fair Trading Act 1987, relevant to the conduct of the course.

#### **Decisions generally**

**14. (1)** Before the Board makes a decision under this Division:

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned and on any relevant authority; and
- (b) it must give the education or training provider and any relevant authority a reasonable opportunity to make representations to the Board in relation to the proposed decision.

**(2)** In making a decision under this Division, the Board must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

**(3)** The Board must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the education or training provider concerned and on any relevant authority.

#### **Division 3 - Accreditation by authorised accrediting bodies**

##### **Accreditation**

**15. (1)** An authorised accrediting body may, on the application of an education or training provider, accredit any vocational course conducted by the provider.

**(2)** An application for accreditation:

- (a) must specify the vocational course or courses to which it relates; and
- (b) must specify the address of the premises in or from which each such course is conducted; and
- (c) must be in such form, and must be accompanied by such fee, as the authorised accrediting body may, in accordance with its authority, determine.

(3) Accreditation may be granted unconditionally or subject to such conditions (which may be imposed when accreditation is granted or at any time thereafter) as the authorised accrediting body may, in accordance with its authority, determine.

(4) Without limiting the generality of subsection (3), accreditation may be granted subject to conditions:

- (a) specifying the period for which the accreditation is to remain in force; and
- (b) requiring the payment of fees to the authorised accrediting body in respect of the accreditation.

(5) An authorised accrediting body may not refuse to accredit a vocational course except on the following grounds:

- (a) that the education or training provider concerned does not have the resources to conduct the course in a competent manner;
- (b) that the course is not of sufficient quality to warrant accreditation;
- (c) that the course does not, or the resources of the education or training provider to conduct the course do not, comply with the relevant guidelines;
- (d) that the accreditation of such a course is beyond the body's authority to accredit courses.

(6) If the conditions of its authority so permit, an authorised accrediting body that is also an education or training provider may, in accordance with this section, accredit vocational courses conducted by it.

#### **Withdrawal of accreditation**

16. (1) An authorised accrediting body may, on its own motion or on the application of any person:

- (a) withdraw accreditation from any vocational course in respect of which it has granted accreditation; or
- (b) revoke or vary any condition to which the accreditation of such a vocational course is subject; or
- (c) impose additional conditions on the accreditation of such a vocational course.

(2) An authorised accrediting body may not withdraw accreditation from a vocational course except on such of the grounds referred to in section 13 (2) as are specified in its authority.

(3) Nothing in this section prevents an authorised accrediting body that is also an education or training provider from withdrawing accreditation from a vocational course conducted by it on any ground it considers appropriate.

#### **Decisions generally**

17. (1) Before an authorised accrediting body makes a decision under this Division:

- (a) it must cause notice of the proposed decision to be served on the education or training provider concerned, on the Board and on any relevant authority; and
- (b) it must give the education or training provider, the Board and any relevant authority a reasonable opportunity to make representations to the body in relation to the proposed decision.

(2) In making a decision under this Division, an authorised accrediting body must have regard to any relevant guidelines and to any representations made under this section in relation to the proposed decision.

(3) An authorised accrediting body must cause notice of any decision made by it under this Division, together with its reasons for the decision, to be served on the education or training provider concerned, on the Board and on any relevant authority.

#### **Division 4 - General**

##### **Advertising etc.**

18. (1) A person must not advertise or otherwise represent:

- (a) that a particular vocational course that is, has been or is to be conducted by that or any other person or body is, has been or is to be accredited, endorsed or otherwise approved (however expressed); or
- (b) that vocational courses generally that are, have been or are to be conducted by that or any other person are, have been or are to be so accredited, endorsed or approved,

unless the person includes in the advertisement or representation the name of the person or body by which the accreditation, endorsement or approval has been or is to be given.

Maximum penalty: 10 penalty units.

(2) A person must not falsely advertise or otherwise falsely represent:

- (a) that a particular vocational course that is, has been or is to be conducted by that or any other person or body is, has been or is to be accredited under this Act; or
- (b) that vocational courses generally that are, have been or are to be conducted by that or any other person or body are, have been or are to be so accredited.

Maximum penalty: 10 penalty units.

#### **Notification of change of name or address**

19. An education or training provider that conducts an accredited vocational course is to cause notice to be given to the Board of any change in the name under which, or in the address of the premises in or from which, it conducts any such course.

#### **Register of accredited courses**

20. The Board is to maintain a register in which the following particulars are to be recorded:

- (a) the name and address of each education or training provider by which accredited vocational courses are conducted;
- (b) the title of each accredited vocational course conducted by each such education or training provider;
- (c) the address of the premises in or from which each such vocational course is conducted by each such education or training provider.

#### **Evidentiary certificates**

21. A certificate that is signed by the General Manager and that certifies that on a specified date or during a specified period:

- (a) a specified person or body was or was not the holder of an authority; or
- (b) a specified vocational course was or was not accredited in relation to a specified education or training provider; or

- (c) a specified authority, or the accreditation of a specified vocational course, was or was not subject to specified conditions,

is admissible in any proceedings and is evidence of the fact or facts so certified.

#### **Transitional provisions**

22. (1) A vocational course to which accreditation is given is an accredited course (in respect of any person who was undertaking the course immediately before accreditation was given) even though the course was not an accredited course when the person began the course.

(2) A vocational course from which accreditation is withdrawn continues to be an accredited course (in respect of any person who, in the opinion of the Board, had substantially completed the course before accreditation was withdrawn) until the person completes, fails or withdraws from the course.

(3) A vocational course that has been accredited by an authorised accrediting body does not cease to be an accredited course merely because the body's authority to accredit courses is subsequently revoked.

(4) A vocational course does not cease to be an accredited course merely because there is a change in the name of the course or in the name of the education or training provider by which the course is conducted.

### **PART 4 - ENFORCEMENT**

#### **Inspectors**

23. (1) The Board may appoint any of its officers to be inspectors for the purposes of this Act.

(2) A certificate of identification, in such form as may be approved by the Minister, is to be issued to each inspector.

#### **Powers of inspectors**

24. (1) An inspector:

- (a) may enter the premises of any education or training provider in respect of which a vocational course is accredited under this Act; and

- (b) may inspect the premises, any documents found on the premises and the conduct of any vocational course at the premises,

for the purpose of ascertaining whether or not the provisions of this Act are being complied with.

(2) The powers conferred by this section may be exercised only during the ordinary business hours of the education or training provider concerned and may not be exercised in any part of premises that is used for residential purposes.

(3) In exercising the powers conferred by this section, an inspector:

- (a) must, if requested to do so by any person on the premises, produce his or her certificate of identification for inspection by that person; and
- (b) must avoid, as far as practicable, doing anything that is likely to impede the conduct of any vocational course at the premises.

#### **Obstruction of inspectors**

25. A person must not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act.

Maximum penalty: 10 penalty units.

#### **False or misleading information**

26. A person must not, in or in connection with any application under this Act, make any statement that the person knows to be false or misleading.

Maximum penalty: 10 penalty units.

### **PART 5 - MISCELLANEOUS**

#### **Service of documents**

27. (1) A document may be served on the Board by leaving it at, or by sending it by post to:

- (a) the office of the Board; or
- (b) if it has more than one office - any one of its offices.

(2) A document required or permitted by or under this Act to be served on a person may be served:



- (a) on a natural person - by delivering it to the person personally or by leaving it at, or by sending it by post to, the address of the place of residence or business of the person last known to the person serving the document; or
  - (b) on a corporation - by leaving it at, or by sending it by post to, the head office, a registered office or a principal office of the corporation.
- (3) Nothing in this section:
- (a) affects the operation of any other Act or law that authorises the service of a document in any other way; or
  - (b) affects the power of a court to authorise service of a document in any other way.

#### **Limitation of liability**

28. No matter or thing done or omitted by the Board, by any member of the Board, by any officer of the Board or by any person acting under the direction of the Board subjects a member of the Board, an officer of the Board or a person so acting personally to any action, liability, claim or demand if the matter or thing was done or omitted in good faith for the purpose of executing this Act.

#### **Annual reports**

29. (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Board is to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister is to lay the report, or to cause it to be laid, before both Houses of Parliament as soon as practicable after receiving it.

#### **Recovery of fees**

30. Any fee payable to the Board under this Act may be recovered, as a debt, in any court of competent jurisdiction.

#### **Proceedings for offences**

31. 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.

**Act binds Crown**

32. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

**Regulations**

33. (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 and, in particular, for or with respect to:

- (a) the custody and use of the seal of the Board; and
- (b) applications under this Act; and
- (c) fees payable under this Act; and
- (d) forms to be used under this Act; and
- (e) notices to be served under this Act; and
- (f) information to be supplied to the Board by education or training providers; and
- (g) records to be kept by education or training providers in relation to persons undertaking accredited vocational courses; and
- (h) certificates to be issued under this Act to education or training providers that conduct accredited vocational courses; and
- (i) certificates to be issued under this Act to persons who undertake or complete accredited vocational courses.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Amendment of Technical and Further Education Act 1974 No. 72**

34. The Technical and Further Education Act 1974 is amended by omitting Part 4.

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

(Sec. 5)

**PART 1 - THE MEMBERS OF THE BOARD**

**General Manager may appoint deputy**

1. (1) The General Manager may, by instrument in writing, appoint a person to act as his or her deputy.

(2) A deputy appointed under this clause, while so appointed, has all the functions of the General Manager and is to be taken to be the General Manager.

(3) The appointment of a deputy under this clause does not prevent the General Manager from exercising his or her functions as General Manager.

**Acting members and acting Chairperson**

2. (1) The Minister may, from time to time, appoint a person to act in the office of a part-time member of the Board during the illness or absence of the member, and the person, while so acting, has all the functions of the member and is to be taken to be a member of the Board.

(2) The Minister may, from time to time, appoint a part-time member of the Board to act in the office of Chairperson of the Board during the illness or absence of the Chairperson, and the member, while so acting, has all the functions of the Chairperson and is to be taken to be the Chairperson.

(3) The Minister may, at any time, remove a person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

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

(5) For the purposes of this clause, a vacancy in the office of a part-time member of the Board or of the Chairperson of the Board is to be taken to be an absence from office of the member or Chairperson.

**Terms of office**

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

**Remuneration of part-time members**

4. A part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of part-time member**

5. (1) The office of a part-time member of the Board 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
- (e) is absent from 4 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 Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been 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

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

- (g) becomes a mentally incapacitated person; or
- (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove a part-time member of the Board from office at any time.

**Filling of vacancy in office of part-time member**

6. If the office of a part-time member of the Board becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**Vacancy in office of Chairperson**

7. (1) The office of Chairperson of the Board becomes vacant if the Chairperson:

- (a) is removed from office by the Minister; or
- (b) resigns the office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member of the Board.

(2) The Minister may remove the Chairperson of the Board from office at any time.

**Disclosure of pecuniary interests**

8. (1) A member of the Board:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

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

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

(2) A disclosure by a member of the Board at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) Particulars of any disclosure made under this clause are to be recorded by the members of the Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the members of the Board.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the Board otherwise determine:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the members of the Board under subclause (4), a member of the Board who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other members of the Board for the purpose of making the determination; or
- (b) take part in the making by the other members of the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

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

**Effect of certain other Acts**

9. (1) Part 2 of the Public Sector Management Act 1988 does not apply to the appointment of a part-time member of the Board.

(2) If by or under any other Act provision is made:

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

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

(3) The office of a part-time member of the Board is not, for the purposes of any Act, an office or place of profit under the Crown.

**Proof of certain matters not required**

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

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

**PART 2 - THE PROCEDURE OF THE BOARD**

**General procedure**

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

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

**Quorum**

12. The quorum for a meeting of the Board is 6 members.

**Presiding member**

13. (1) The Chairperson of the Board (or, in the absence of the Chairperson, another part-time member of the Board elected to chair the meeting by the members of the Board present) is to preside at a meeting of the Board.

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

**Voting**

14. 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.

**Transaction of business outside meetings or by telephone etc.**

15. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members of the Board (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson of the Board and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.



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

(5) Papers may be circulated among members of the Board for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

**Minutes**

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

**First meeting of the Board**

17. The Minister is to call the first meeting of the Board at such time, and in such manner, as the Minister considers appropriate.

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