

BOARD OF ADULT AND COMMUNITY EDUCATION ACT 1990

No. 119

NEW SOUTH WALES



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BOARD OF ADULT AND COMMUNITY EDUCATION ACT 1990
No. 119

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Act No. 119,1990

An Act relating to the constitution, functions and procedure of the Board of Adult and Community Education. [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 Board of Adult and Community Education Act 1990.

Commencement

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

Definitions

3. (1) In this Act:

"**Board**" means the Board of Adult and Community Education constituted by this Act;

"**member**" means member of the Board;

"**TAFE Commission**" means the Technical and Further Education Commission constituted by the Technical and Further Education Commission Act 1990;

"**TAFE Commission Board**" means the TAFE Commission Board established under the Technical and Further Education Commission Act 1990.

(2) In this Act:

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

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

PART 2 - CONSTITUTION OF THE BOARD

Constitution of Board

4. There is constituted by this Act a Board of Adult and Community Education.

Membership of Board

- 5. (1)** The Board is to consist of 13 members, as follows:
- (a) 9 persons appointed by the Minister who have such qualifications or experience in the field of adult and community education, finance and management, higher education or community service as the Minister considers necessary to enable them to contribute to the work of the Board;
 - (b) a person appointed by the Minister on the nomination of the TAFE Commission Board;
 - (c) a person nominated for the time being by the Minister for School Education and Youth Affairs;
 - (d) the Director-General of the Department of Further Education, Training and Employment;
 - (e) the Executive Member of the Board.
- (2)** In making appointments to the Board, the Minister is to have regard to:
- (a) the need to appoint both men and women; and
 - (b) the need to appoint persons who have knowledge or expertise in the education of women, Aborigines, persons from non-English speaking backgrounds, persons with disabilities and persons from rural areas.
- (3)** Schedule 1 has effect with respect to the members of the Board.

Procedure of Board

- 6.** Schedule 2 has effect with respect to the procedure of the Board.

PART 3 - FUNCTIONS OF THE BOARD

Functions of Board

- 7. (1)** The functions of the Board are as follows:
- (a) to promote the provision of adult and community education in the State;
 - (b) to foster and support the establishment of organisational structures and mechanisms that facilitate the co-ordinated provision of adult and community education in the State;

- (c) to advise the Minister, the TAFE Commission Board and other relevant agencies on needs and trends in, and the co-ordination of, adult and community education;
- (d) to arrange, on behalf of the Government and in accordance with any guidelines provided by the Minister, for the distribution of government funds to adult and community education agencies;
- (e) such other functions as are conferred or imposed on it by or under this or any other Act.

(2) The Board is, in the exercise of its functions, subject to the control and direction of the Minister.

(3) The Board is, in the exercise of its functions, required to consult with the TAFE Commission Board.

Strategic plans

8. (1) The Board is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year, a strategic plan for the co-ordination and development of adult and community education provided by agencies funded by the Government (other than the TAFE Commission).

(2) The Board and the TAFE Commission Board are required to prepare jointly and deliver to the Minister, each year as directed by the Minister, a strategic plan for the co-ordination and development of adult and community education generally in the State.

PART 4 - MISCELLANEOUS

Staff of Board

9. An Executive Member of the Board 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.

Committees of Board

10. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

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

(3) The procedure for the calling of meetings of a 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.

Personal liability of members of Board etc.

11. A matter or thing done or omitted to be done by the Board, a member of the Board or any person acting under the direction of the Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the member or a person so acting personally to any action, liability, claim or demand.

Regulations

12. 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.

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS
OF BOARD**

(Sec. 5 (3))

Definitions

1. In this Schedule:

"**appointed member**" means a member of the Board other than an ex-officio member,

"**ex-officio member**" means a member of the Board referred to in section 5 (1) (c)-(e).

Chairperson of Board

2. (1) One of the appointed members is to be appointed by the Minister as Chairperson of the Board.

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

(3) A person who is a member and Chairperson vacates the office of Chairperson if the person:

SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS
OF BOARD - *continued*

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

Deputies of members

3. (1) The Minister may, from time to time, appoint a person to be the deputy of an appointed member, and the Minister may revoke any such appointment.

(2) An ex-officio member may, from time to time, appoint a person to be the deputy of the member, and the ex-officio member or the Minister may revoke any such appointment.

(3) In the absence of a member, the member's deputy:

- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is to be taken to be a member.

(4) The deputy of a member who is Chairperson of the Board does not (because of this clause) have the member's functions as Chairperson.

(5) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

Terms of office

4. Subject to this Schedule, an appointed member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Allowances

5. An appointed member is entitled to be paid such allowances as the Minister from time to time determines in respect of the member.

SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS
OF BOARD - *continued*

Vacancy in office of appointed member

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

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 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 Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board 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
- (g) becomes a mentally incapacitated person; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove an appointed member from office at any time.

Filling of vacancy in office of member

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

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS
OF BOARD - *continued***

Effect of certain other Acts

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

(2) If by or under any 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 member or from accepting and retaining any remuneration payable to the person under this Act as a member.

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

**SCHEDULE 2 - PROVISIONS RELATING TO PROCEDURE
OF BOARD**

(Sec. 6)

General procedure

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

Quorum

2. The quorum for a meeting of the Board is 7 members.

Presiding member

3. (1) The Chairperson of the Board or, in the absence of the Chairperson, another member elected to chair the meeting by the members 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.

SCHEDULE 2 - PROVISIONS RELATING TO PROCEDURE
OF BOARD - *continued*

Voting

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

Attendance by non-members

5. A person authorised by the Board or the Chairperson of the Board may attend a meeting of the Board for the purpose of assisting the Board to exercise its functions.

Transaction of business outside meetings or by telephone etc.

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

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (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 and each member have the same voting rights 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.

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

First meeting

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

*[Minister's second reading speech made in—
Legislative Assembly on 21 November 1990
Legislative Council on 29 November 1990]*