



New South Wales

Education and Teaching Legislation Amendment Act 2016 No 50

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New South Wales

Education and Teaching Legislation Amendment Act 2016 No 50

Act No 50, 2016

An Act to amend the *Board of Studies, Teaching and Educational Standards Act 2013*, the *Education Act 1990* and the *Teacher Accreditation Act 2004* with respect to the constitution and functions of the NSW Education Standards Authority; to make further provision with respect to the registration of non-government schools and the accreditation of teachers; and for other purposes. [Assented to 18 October 2016]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Education and Teaching Legislation Amendment Act 2016*.

2 Commencement

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

Schedule 1 Amendment of Board of Studies, Teaching and Educational Standards Act 2013 No 89

[1] The whole Act (except section 18 (a), Schedule 2 and where otherwise amended by this Schedule)

Omit “Board” and “Board’s” wherever occurring.

Insert instead “Authority” and “Authority’s”, respectively.

[2] Long title

Omit “Board of Studies, Teaching and Educational Standards”.

Insert instead “NSW Education Standards Authority”.

[3] Section 1 Name of Act

Omit “*Board of Studies, Teaching and Educational Standards*”.

Insert instead “*Education Standards Authority*”.

[4] Section 3 Definitions

Omit the definition of **Board** from section 3 (1). Insert in alphabetical order:

appointed member means a member of the Board other than the Chief Executive Officer.

Authority means the NSW Education Standards Authority constituted under this Act.

Board means (except in Schedule 2) the Board of the NSW Education Standards Authority established under this Act.

Chairperson means the Chairperson of the Board.

Chief Executive Officer means the Chief Executive Officer of the Authority.

committee of the Board means:

(a) a committee established by the Board under section 12C (1), or

(b) the Quality Teaching Committee established under the *Teacher Accreditation Act 2004*.

[5] Section 3 (1), definition of “President”

Omit the definition.

[6] Part 2

Omit the Part. Insert instead:

Part 2 NSW Education Standards Authority

Division 1 Constitution and management of Authority

4 Constitution of NSW Education Standards Authority

(1) There is constituted by this Act a body corporate with the corporate name of the NSW Education Standards Authority.

(2) The Authority is, for the purposes of any Act, a NSW Government agency.

Note. See section 13A of the *Interpretation Act 1987*.

5 Role of Minister

The Authority is subject to the control and direction of the Minister in the exercise of its functions, except in relation to:

- (a) the contents of any advice, report or recommendation it makes to the Minister or any other person or body, or
- (b) its functions under Part 8 of the *Education Act 1990*.

6 Board of the Authority

- (1) There is to be a Board of the NSW Education Standards Authority.
- (2) The Board is to consist of the following members:
 - (a) an independent person appointed by the Minister as the Chairperson of the Board,
 - (b) 6 persons appointed by the Minister as follows:
 - (i) 1 from the government school sector, 1 from the Catholic school sector and 1 from the independent school sector,
 - (ii) 2 from teacher unions,
 - (iii) 1 from Aboriginal education,
 - (c) no less than 4 (but not more than 6) other persons appointed by the Minister with regard to teachers and school leaders, universities, vocational education and training, parents of school children, early childhood education, special education, business acumen and strategic advisory skills,
 - (d) the Chief Executive Officer.
- (3) The appointed members are to be persons who, in the opinion of the Minister, together have skills and experience that will assist the Authority in exercising its functions.
- (4) Each member of the Board is to exercise his or her functions as a member in a manner that promotes the objectives of the Authority and the interests of students.
- (5) Of the appointed members other than the Chairperson, one is to be appointed as Deputy Chairperson of the Board in or by the instrument of appointment as a member or in or by some other instrument executed by the Minister.
- (6) An appointed member cannot nominate another person to act on the behalf of the member.

Note. See clause 3 of Schedule 1 which provides for the appointment by the Minister of alternate members in certain circumstances.
- (7) Schedule 1 contains provisions relating to the members and procedure of the Board.

7 Role of Board

- (1) The Board has the following functions:
 - (a) to determine the general policies and strategic direction of the Authority,
 - (b) to oversee the functions of the Authority (including its financial responsibilities),
 - (c) to give advice to the Minister on matters relating to the functions of the Authority (including advice on school education standards),

- (d) such other functions as are conferred or imposed on it by or under this or any other Act or law.
- (2) Any decision relating to the functions of the Authority is to be made by or under the authority of the Board.
- (3) Any act, matter or thing done in the name of, or on behalf of, the Authority by or under the authority of the Board is taken to have been done by the Authority.

8 Chief Executive Officer

- (1) The Chief Executive Officer of the Authority is the person who, having regard to any advice of the Chairperson, is employed in the Public Service as the Chief Executive Officer of the Authority.
- (2) The Chief Executive Officer is responsible for the day to day management of the activities of the Authority.
- (3) The Chief Executive Officer is, on the request of the Minister or on the Chief Executive Officer's own initiative, to report to the Minister on matters relating to the activities of the Authority.

9 Staff of Authority

Persons may be employed in the Public Service to enable the Authority to exercise its functions.

Note. Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the *Constitution Act 1902* precludes the Authority from employing staff.

Division 2 Objectives and functions of Authority

10 Charter and annual Statement of Expectations

- (1) The Authority is to have a charter, prepared by the Board and approved by the Minister, outlining its key responsibilities and objectives.
- (2) The Minister may, in a Statement of Expectations issued annually to the Authority, determine priorities in relation to the exercise by the Authority of its functions.
- (3) This section does not affect the operation of the *Annual Reports (Statutory Bodies) Act 1984*.

11 Principal objectives of Authority

- (1) The principal objectives of the Authority are as follows:
 - (a) to provide strategic leadership in improving standards of school education,
 - (b) to promote an evidence-based approach in improving standards of school education,
 - (c) to ensure that each of the following matters under the education and teaching legislation is developed, applied and monitored in a way that improves student learning while maintaining flexibility across the entire school education and teaching sector:
 - (i) the school curriculum,
 - (ii) forms of assessment,
 - (iii) regulatory standards for schools,
 - (iv) teaching quality and professional standards.

- (2) This section does not limit any of the other objectives of the Authority outlined in its charter.

12 Functions of Authority

- (1) The Authority has the functions conferred or imposed on it by or under:
- (a) the education and teaching legislation, or
 - (b) any other legislation.
- (2) In particular, the Authority has functions under the education and teaching legislation in relation to the following:
- (a) the school curriculum for primary and secondary school children,
 - (b) the approval of initial and continuing teacher education courses and programs that are relevant to the accreditation of persons under the *Teacher Accreditation Act 2004*,
 - (c) the accreditation of teachers and the monitoring of the accreditation process across all schools and early childhood education centres under that Act,
 - (d) basic skills testing,
 - (e) the granting of Records of School Achievement and Higher School Certificates,
 - (f) the registration and accreditation of schools,
 - (g) the approval of providers of courses at schools to overseas students,
 - (h) the development, content and application of professional teaching standards,
 - (i) reporting and advising on matters relating to the Authority's functions.

12A Conduct of reviews

- (1) The Authority may, subject to any direction by the Minister, conduct a review into any matter arising under the education and teaching legislation.
- (2) For the purposes of conducting any such review, the Authority may request a person or body to provide such information as the Authority reasonably requires.

12B Delegation of functions

- (1) The Authority may delegate to an authorised person or body any of its functions under the education and teaching legislation, other than this power of delegation.
- (2) In this section:
authorised person or body means any of the following:
- (a) an appointed member,
 - (b) the Chief Executive Officer,
 - (c) a member of staff of the Authority,
 - (d) a committee of the Board or subcommittee of a committee,
 - (e) a member of any such committee or subcommittee,
 - (f) a person or body, or a person or body of a class, prescribed by the regulations.

12C Committees of the Board

- (1) The Board may, with the approval of the Minister, establish committees:
 - (a) to give advice or assistance to the Board in connection with any particular matter or function of the Board, or
 - (b) for the purposes of enabling the functions of the Authority to be delegated to any such committee.

Note. In addition to any committee established under this section, the Quality Teaching Committee is established under the *Teacher Accreditation Act 2004* as a committee of the Board.

- (2) The Board is not to appoint a person as a member of a committee established under subsection (1) unless the Board is of the opinion that the person has appropriate expertise to make a valuable contribution to the committee. In appointing persons as members of a committee, the Board is to have regard to an appropriate mix of skills, knowledge and experience.
- (3) A committee of the Board that is exercising a delegated function of the Authority must, unless the Minister determines otherwise, be chaired by an appointed member. It does not matter that some or all of the other members of the committee are not appointed members of the Board.
- (4) A person cannot at any one time be the chairperson of more than 2 committees of the Board.
- (5) The procedure for the calling of meetings of a committee of the Board 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.

12D Subcommittees

- (1) Any committee of the Board may establish subcommittees to assist the committee in connection with the exercise of any of its functions.
- (2) A subcommittee of a committee of the Board need not include a member of the committee.
- (3) The procedure for the calling of meetings of a subcommittee of a committee of the Board and for the conduct of business at those meetings is to be as determined by the committee or (subject to any determination of the committee) by the subcommittee.

[7] Section 14 Inspection of education premises

Insert the end of section 14 (1) (b):

- , and
- (c) may conduct such audits and carry out such inspections on those premises as the inspector considers necessary.

[8] Section 14 (2A)

Insert after section 14 (2):

- (2A) Any power conferred on an inspector by this section may be exercised on or in relation to education premises without the inspector being required to give notice to any person or body before exercising that power.

[9] Section 14 (6), definition of “education premises”

Omit the definition. Insert instead:

education premises means any of the following:

- (a) any government school or non-government school within the meaning of the *Education Act 1990* (including any proposed non-government school in respect of which an application for registration has been made under that Act),
- (b) the premises of an approved provider within the meaning of Part 7A of the *Education Act 1990* (but only to the extent to which the premises are used to carry out activities as such an approved provider),
- (c) an early childhood education centre within the meaning of the *Teacher Accreditation Act 2004*,
- (d) the premises of a person or body approved by the Authority to provide professional development in accordance with the requirements of the professional teaching standards under the *Teacher Accreditation Act 2004* (but only to the extent to which the premises are used to carry out activities as such a provider),
- (e) the premises of a person or body approved by the Minister, the Secretary of the Department of Education or the Authority as a teacher accreditation authority under the *Teacher Accreditation Act 2004* (but only to the extent to which the premises are used to carry out activities as such an approved authority).

[10] Section 15 Education Standards Authority Fund

Omit “a Board of Studies, Teaching and Educational Standards Fund” from section 15 (1).
Insert instead “the Education Standards Authority Fund”.

[11] Section 15 (2) (b)

Omit “Council”. Insert instead “Committee”.

[12] Section 16 Exchange of information

Omit “section 83H” from section 16 (4). Insert instead “section 83S”.

[13] Section 16 (5), definition of “relevant agency”

Omit paragraph (a). Insert instead:

- (a) the Department of Education or any other Public Service agency,

[14] Sections 20 and 21

Omit the sections. Insert instead:

20 Service of documents

- (1) A document that is authorised or required by the education and teaching legislation to be served on any person may be served by any of the following methods:
 - (a) in the case of an individual—by personal delivery to the person,
 - (b) by post to the address specified by the person for the service of documents of that kind,

- (c) in the case of an individual who has not specified such an address—by post to the residential or business address of the person last known to the person serving the document,
 - (d) in the case of a corporation—by post to the registered office or any other office of the corporation or by leaving it at any such office with a person apparently over the age of 16 years,
 - (e) by email to an email address specified by the person for the service of documents of that kind,
 - (f) by any other method authorised by the regulations for the service of documents of that kind.
- (2) A document may be served on the Authority by any of the following methods:
- (a) by post to the address specified by the Authority for the service of documents of that kind,
 - (b) by post to an office of the Authority or by leaving it at any such office with a person apparently over the age of 16 years,
 - (c) by email to an email address specified by the Authority for the service of documents of that kind,
 - (d) by any other method authorised by the regulations for the service of documents of that kind.
- (3) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person or the Authority by any other method.
- (4) In this section, *serve* includes give or send.

[15] Section 23

Omit the section. Insert instead:

23 Penalty notices

- (1) A member of staff of the Authority authorised in writing by the Authority may issue a penalty notice to a person if it appears to the member of staff that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence under the education and teaching legislation that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations.
- (5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

[16] Section 25 Rules of Authority

Insert “or any other matter that is required or permitted to be prescribed under that legislation by the rules” after “its functions” in section 25 (1).

[17] Section 25 (2)

Omit the subsection. Insert instead:

- (2) Without limiting subsection (1), the rules may:
 - (a) set out guidelines with respect to the requirements for registration, approval and accreditation under the education and teaching legislation, and
 - (b) make provision for or with respect to the conduct of proceedings of committees of the Board of the Authority or of subcommittees of such committees.

[18] Section 25A

Insert after section 25:

25A Delegation of Minister's functions

The Minister may delegate to any person or body any function conferred or imposed on the Minister by or under this Act, other than this power of delegation or the following:

- (a) the appointment of members of the Board,
- (b) the issuing of a Statement of Expectations under section 10.

[19] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Provisions relating to members and procedure of Board

(Section 6 (7))

1 Definition

In this Schedule:

member means any member of the Board.

2 Terms of office of appointed members

- (1) Subject to this Schedule, an appointed member holds office for the period (not exceeding 3 years) specified in the instrument of the member's appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) A person may not be an appointed member for consecutive terms totalling more than 6 years unless the Minister determines otherwise.

3 Alternate members

- (1) The Minister may, from time to time, appoint a person to be an alternate member for an appointed member (including the Chairperson and Deputy Chairperson) of the Board.
- (2) The provisions of this Schedule, with any necessary modifications, apply to and in respect of alternate members in the same way as they apply to members.
- (3) An alternate member may act in the office of the appointed member for whom he or she is the alternate member during the illness or absence of that member (or a vacancy in the office of that member) and, while so acting, has all the functions of that member and is taken to be that member.

4 Remuneration

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

5 Filling of vacancy in office of appointed member

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

6 Casual vacancies

- (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
 - (e) is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by 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 an appointed member from office at any time.

7 Disclosure of pecuniary or other interests

- (1) If:
 - (a) a member has, in terms of any guidelines determined by the Board for the purposes of this clause, a direct or indirect pecuniary interest, or any other interest, in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member 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.
- (2) A disclosure by a member 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 subclause (1).

- (3) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister otherwise determines:
 - (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.
- (4) A contravention of this clause does not invalidate any decision of the Board.

8 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the appointment or office of an appointed member.
- (2) If by or under any other Act provision is made:
 - (a) requiring a person who is the holder of an office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,that provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as a member.
- (3) This clause applies to a member of a committee of the Board in the same way as it applies to an appointed member.

9 General procedure

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

10 Quorum

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

11 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another appointed member elected to chair the meeting by the members present) is to preside at a meeting of the Board.
- (2) The presiding member at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12 Voting

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.

13 Minutes

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

14 Proof of certain matters not required

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

15 First meeting of the Board

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

[20] Schedule 1A Provisions relating to President of the Board

Omit the Schedule.

[21] Schedule 2 Savings, transitional and other provisions

Insert after Part 2:

Part 3 Provisions consequent on enactment of Education and Teaching Legislation Amendment Act 2016

8 Definition

In this Part:

former body means the Board of Studies, Teaching and Educational Standards as constituted under this Act immediately before the substitution of Part 2 of this Act by the *Education and Teaching Legislation Amendment Act 2016*.

9 Continuation of former body

The NSW Education Standards Authority is a continuation of, and the same legal entity as, the former body.

Note. Section 53 of the *Interpretation Act 1987* contains savings provisions in relation to the effect of the reconstitution of the former body under a new name.

10 Continuation of existing Fund

The Education Standards Authority Fund established under section 15 is a continuation of the Board of Studies, Teaching and Educational Standards Fund.

11 Members of former body cease to hold office

The persons (other than the President of the former body) who were members of the former body immediately before the commencement of this clause cease to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.

12 President of former body

The following provisions apply to or in respect of the person who held office as the President of the former body immediately before the commencement of this clause:

- (a) the person ceases to hold that office and is not entitled to any remuneration or compensation because of the loss of that office (other than compensation to which the person is entitled as a result of the operation of paragraph (b)),
- (b) the person's employment is taken to have been terminated under section 41 of the *Government Sector Employment Act 2013*,
- (c) the person is taken to have been appointed as the Chairperson of the Board of the Authority,
- (d) the person's appointment as the Chairperson is subject to Schedule 1 to this Act.

13 Transfer of staff employed in existing staff agency

The persons employed under the *Government Sector Employment Act 2013* in the Board of Studies, Teaching and Educational Standards Staff Agency immediately before the commencement of this clause are transferred to the Education Standards Authority Staff Agency.

Schedule 2 Amendment of Education Act 1990 No 8

[1] The whole Act (except Schedule 3 and where otherwise amended by this Schedule)

Omit “Board” and “Board’s” wherever occurring.

Insert instead “Authority” and “Authority’s”, respectively.

[2] Section 3 Definitions

Omit the definition of *Board* from section 3 (1). Insert in alphabetical order:

Authority means the NSW Education Standards Authority constituted under the *Education Standards Authority Act 2013*.

[3] Section 3 (1), definition of “Department”

Omit “and Communities”.

[4] Section 3 (1), definition of “inspector”

Omit “*Board of Studies, Teaching and Educational Standards*”.

Insert instead “*Education Standards Authority*”.

[5] Section 3 (1), definition of “rules of the Board”

Omit the definition. Insert instead:

rules of the Authority means rules made by the Authority under section 25 of the *Education Standards Authority Act 2013*.

Note. The rules of the Authority only have effect if approved by the Minister.

[6] Section 27 Establishment of government schools

Omit section 27 (3). Insert instead:

- (3) The Department is to inform the Authority of the establishment or change of name of a government school.

[7] Section 27A

Insert after section 27:

27A Functions of Authority in relation to government schools

- (1) The Authority is to monitor, and provide advice to the Minister and the Secretary on, the compliance by government schools with similar requirements to those that apply to non-government schools under section 47 (the *relevant requirements*). In doing so, the Authority may have regard to the same matters in respect of which the Authority may have regard under that section in relation to the requirements for registration of non-government schools.
- (2) If the Authority is of the opinion that a government school is not complying with the relevant requirements, the Authority is to notify the Secretary in writing of the non-compliance. Any such notice may recommend the taking of specific action in relation to the school.
- (3) The Secretary is, if notified by the Authority that a government school is not complying with the relevant requirements, to advise the Authority of any action taken by the Department in dealing with the non-compliance specified by the Authority in the notice.

- (4) In exercising its functions under this section in relation to government schools, the Authority is to be provided by the Department with such assistance as may reasonably be required.
- (5) A reference in this section to a government school includes a reference to a group (however described) of government schools or to the whole or any part of the government school system.

[8] Section 28 Closure of government schools

Insert after section 28 (10):

- (11) The Department is to inform the Authority of the closure of a government school.

[9] Section 47 Registration requirements for non-government schools

Insert after section 47 (a):

- (a1) the school is financially viable,

[10] Section 47 (b)

Omit “of good character”. Insert instead “a fit and proper person or body”.

[11] Section 47 (2) and (3)

Insert at the end of section 47:

- (2) In deciding whether the requirements for registration will be or are being complied with at or in relation to a non-government school, the Authority or the Minister is to have regard to matters relating to the quality of student learning. Such matters include, but are not limited to, the following:
 - (a) the standard of teaching of courses of study provided at the school,
 - (b) student engagement in learning at the school,
 - (c) any matters identified in a risk assessment conducted by the Authority in relation to the school.
- (3) The rules of the Authority may specify matters, in addition to but not inconsistent with the matters referred to in subsection (2), that the Minister may have regard to in determining whether the requirements for registration will be or are being complied with at or in relation to a non-government school.

[12] Section 50 Consideration by Authority of application for initial registration of new non-government schools etc

Insert after section 50 (1):

- (1A) The Authority may, in preparing the report, request the applicant for registration to provide such documentary or other evidence in support of the application as the Authority, based on a risk assessment, considers necessary. Despite subsection (1), the Authority is not required to provide the report to the Minister if any such requested information is not provided.

[13] Section 53A

Insert after section 53:

53A Conditions of registration

- (1) The registration of a non-government school is subject to such conditions relating to the requirements for registration as the Minister may impose

(whether at the time the school is registered or at any later time). Any such conditions are to be specified in the school's certificate of registration.

- (2) The Minister may not impose a condition on the registration of a non-government school unless the Authority has made a written recommendation to the Minister that the condition be imposed.

[14] Section 54A Renewal of registration

Insert "and conditions" after "terms" in section 54A (3) (b).

[15] Sections 55 (2), 57A (2), 59 (2) and 61 (2)

Insert ", or the conditions of," after "requirements for" wherever occurring.

[16] Section 55 Authority to make recommendation about renewal of registration

Insert after section 55 (3):

- (3A) Without affecting the operation of section 54A (3), the notice may also request the principal or proprietor of the school or the approved authority for the system to provide such documentary or other evidence in support of the application for renewal of registration as the Authority, based on a risk assessment, considers necessary. Despite subsection (1), the Authority is not required to make a recommendation to the Minister about the renewal of registration if any such requested information is not provided.

[17] Section 56 Renewal of registration by Minister

Insert ", and the conditions of," after "requirements for" in section 56 (1).

[18] Section 57 Duration of renewal of registration

Omit "its" from section 57 (3). Insert instead ", or the conditions of,".

[19] Section 69 Returns by schools

Insert at the end of the section:

- (2) The approved form may require that the matters included in any such return are certified.

[20] Section 119 Delegation by Minister or Secretary

Omit the note. Insert instead:

Note. The power of the Authority to delegate its functions under this Act is contained in the *Education Standards Authority Act 2013*.

[21] Schedule 3 Savings, transitional and other provisions

Insert after Part 15:

Part 16 Provisions consequent on enactment of Education and Teaching Legislation Amendment Act 2016

36 Registration requirements for non-government schools

The amendments made to Subdivisions 2 and 3 of Division 2 of Part 7 of this Act by Schedule 2 to the *Education and Teaching Legislation Amendment Act 2016* extend to an application under those Subdivisions that was made (but not determined) before the commencement of those amendments.

37 Conditions of registration of non-government schools

Section 53A, as inserted by Schedule 2 to the *Education and Teaching Legislation Amendment Act 2016*, extends to any non-government school registered before the commencement of that section.

Schedule 3 Amendment of Teacher Accreditation Act 2004 No 65

- [1] **The whole Act (except Schedule 3 and where otherwise amended by this Schedule)**
Omit “Board” and “Board’s” wherever occurring.
Insert instead “Authority” and “Authority’s”, respectively.
- [2] **Section 3 Definitions**
Omit the definition of *Board* from section 3 (1). Insert in alphabetical order:
Authority means the NSW Education Standards Authority constituted under the *Education Standards Authority Act 2013*.
- [3] **Section 3 (1), definition of “Council”**
Omit the definition. Insert in alphabetical order:
QTC means the Quality Teaching Committee established under section 12.
- [4] **Section 3 (1), definition of “President”**
Omit the definition.
- [5] **Section 3 (1), definition of “rules of the Board”**
Omit the definition. Insert instead:
rules of the Authority means rules made by the Authority under section 25 of the *Education Standards Authority Act 2013*.
Note. The rules of the Authority only have effect if approved by the Minister.
- [6] **Sections 3 (1) (definition of “Secretary”) and 17 (1) (c) (i)**
Omit “and Communities” wherever occurring.
- [7] **Part 2, heading**
Omit “**Board’s functions and Quality Teaching Council**”.
Insert instead “**Authority’s functions and Quality Teaching Committee**”.
- [8] **Section 7 Functions of Authority under this Act**
Omit “by the Minister” from section 7 (2) (f).
- [9] **Section 7 (3)**
Omit “making recommendations to the Minister as to whether or not the Minister approve”.
Insert instead “making decisions whether or not to approve”.
- [10] **Part 2, Division 4**
Omit the Division. Insert instead:
- Division 4 Quality Teaching Committee**
- 12 Establishment and functions of QTC**
- (1) The Quality Teaching Committee (the *QTC*) is established by this Act. The QTC is a committee of the Board of the Authority.

- (2) The QTC has the following functions:
 - (a) to provide advice to the Board of the Authority in connection with the exercise of the Authority's functions under this Act,
 - (b) such of the Authority's functions under this Act as are delegated to the QTC by the Authority under the *Education Standards Authority Act 2013*.

13 Membership of QTC

- (1) The QTC is to consist of the following members:
 - (a) 5 persons (the *elected members*) who are persons accredited under this Act and who are elected, in accordance with the regulations, by those persons whose are enrolled on the electoral list referred to in section 17,
 - (b) 6 persons (the *appointed members*) who are appointed by the Minister and who, in the opinion of the Minister, together have skills and experience that will assist the QTC in exercising its functions.
- (2) One of the appointed members is, by the instrument of that member's appointment or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the QTC.
- (3) A person may hold office as a member of the QTC for terms totalling not more than 6 years.
- (4) If a term of office of an elected member of the QTC is extended in accordance with the regulations so that the term exceeds 3 years, the part of the term that exceeds 3 years is to be disregarded for the purposes of subsection (3).
- (5) Schedule 2 contains provisions with respect to the members and procedure of the QTC.

[11] Section 17 Electoral list

Omit "Council" from section 17 (1) (b). Insert instead "QTC".

[12] Section 20 Matters to be dealt with by professional teaching standards

Omit "(including the revocation or suspension of accreditation)" from section 20 (c).

Insert instead "and by the Authority in relation to the suspension or revocation of any such accreditation".

[13] Section 20 (d) and (e)

Omit "Minister" wherever occurring. Insert instead "Authority".

[14] Section 20 (2) and (3)

Insert at the end of section 20:

- (2) Any procedures or guidelines under the professional teaching standards in relation to the suspension or revocation by the Authority of the accreditation of persons:
 - (a) must be consistent with the rules of procedural fairness, and
 - (b) are subject to section 24C.

- (3) Any approval by the Authority under the professional teaching standards of a teacher education course or program or of the persons or bodies who may provide professional development:
 - (a) is subject to such conditions as the Authority thinks fit to impose (including while the approval is in force), and
 - (b) may be suspended or revoked at any time by the Authority.

[15] Section 21 Accreditation of teachers at schools and early childhood education centres

Omit section 21 (1). Insert instead:

- (1) The teacher accreditation authority for a school or early childhood education centre may, in accordance with this Part, accredit any person who is employed to teach in the school or centre (including any person who has applied for a position as a teacher in the school or centre).

[16] Sections 21 (2) and 27 (1) (b)

Omit “a teacher accreditation authority” wherever occurring. Insert instead “the Authority”.

[17] Sections 24 (1), 24A (1) and (2), 24B and 24C (1)

Omit “A teacher accreditation authority” wherever occurring.

Insert instead “The Authority”.

[18] Sections 24 (1) and 24A (1) and (2) (c)

Omit “the authority” wherever occurring. Insert instead “the Authority”.

[19] Sections 24 (2) and 24A (3) and (5)

Omit the subsections.

[20] Section 24A (2)

Omit “authority’s”. Insert instead “Authority’s”.

[21] Section 24C (2)

Omit “the teacher accreditation authority”. Insert instead “the Authority”.

[22] Section 24E

Insert after section 24D:

24E Voluntary cancellation of accreditation

The Authority may, on application by a person who is accredited, cancel the person’s accreditation.

[23] Section 27 Administrative review of certain decisions

Omit section 27 (1) (c). Insert instead:

- (c) the refusal or failure of the Authority to approve:
 - (i) a teacher education course or program for the purposes of this Act, or
 - (ii) a person or body to provide professional development in accordance with the requirements of the professional teaching standards,
- (d) the revocation or suspension of any such approval by the Authority.

[24] Section 27 (2)

Omit “Any such decision by a teacher accreditation authority”.

Insert instead “A decision of a kind referred to in subsection (1)”.

[25] Section 42B Requirement for Authority to be notified of certain matters

Insert after section 42B (2):

- (3) If, in the case of a person who is accredited, the person’s employer or relevant teacher accreditation authority has or is aware of any information that is or may be relevant to any of the grounds for which the person’s accreditation may be suspended or revoked by the Authority under this Act, the employer or teacher accreditation authority must, in accordance with the rules of the Authority, notify the Authority that the employer or authority has or is aware of that information.

Maximum penalty: 50 penalty units.

- (4) For the purposes of subsection (3), the *relevant teacher accreditation authority* in relation to a person is:
- (a) the relevant teacher accreditation authority that accredited the person, or
 - (b) the teacher accreditation authority for the school or early childhood education centre at which the person is employed.

[26] Section 45 Delegations

Omit the note to section 45 (1). Insert instead:

Note. The power of the Authority to delegate its functions under this Act is contained in the *Education Standards Authority Act 2013*.

[27] Section 48 Protection from personal liability for members of Council

Omit the section.

[28] Section 52 Regulations

Omit section 52 (1A) (b). Insert instead:

- (b) without limiting paragraph (a), fees and charges in relation to the approval by the Authority, on application, of teacher education courses and programs for the purposes of this Act or of persons or bodies to provide professional development in accordance with the professional teaching standards,

[29] Schedule 2, heading

Omit “the Council”. Insert instead “QTC”.

[30] Schedule 2

Insert before clause 1:

Note. See also section 12C of the *Education Standards Authority Act 2013* which contains provisions relating to the QTC.

[31] Schedule 2, clause 1, definition of “member”

Omit the definition. Insert instead:

member means any member of the QTC.

[32] Schedule 2, clause 4

Omit “An appointed member or an elected member”. Insert instead “A member”.

[33] Schedule 2, clause 6

Omit “an appointed member or an elected member” wherever occurring in clause 6 (1) and (1A).

Insert instead “a member”.

[34] Schedule 2, clauses 6 (1) (e), 7 and 9–13

Omit “Council” wherever occurring. Insert instead “QTC”.

[35] Schedule 2, clause 8

Omit the clause.

[36] Schedule 2, clause 9

Omit “13 members”. Insert instead “7 members”.

[37] Schedule 2, clause 10

Omit “President or, in the absence of the President,”.

Insert instead “Chairperson of the QTC or, in the absence of the Chairperson,”.

[38] Schedule 2, clause 12 (3)

Omit “President”. Insert instead “Chairperson of the QTC”.

[39] Schedule 3 Savings and transitional provisions

Insert after Part 4:

Part 5 Provisions consequent on enactment of Education and Teaching Legislation Amendment Act 2016

12 Existing approvals by Minister

Any approval by the Minister of an initial or continuing teacher education course or program for the purposes of this Act or of any person or body to provide professional development in accordance with the professional teaching standards, being an approval in force immediately before the commencement of this clause, is taken to be an approval by the Authority.

13 Abolition of Quality Teaching Council

- (1) The Quality Teaching Council (as established under Division 4 of Part 2 of this Act immediately before the substitution of that Division by the *Education and Teaching Legislation Amendment Act 2016*) is abolished.
- (2) Each member of the Quality Teaching Council ceases to hold office as a member and is not entitled to any remuneration or compensation because of the loss of that office.

14 Interim elected members of QTC

Until such time as members of the QTC are elected in accordance with section 13 (1) (a) (as substituted by the *Education and Teaching Legislation Amendment Act 2016*), the elected members of the QTC are to consist of those former elected members of the Quality Teaching Council as are determined by or in accordance with the regulations.

Schedule 4 Amendment of other legislation

4.1 Government Information (Public Access) Regulation 2009

Schedule 3 Agencies declared to be part of other agencies

Omit “Office of the Board of Studies” from the matter relating to the Australian Music Examinations Board NSW.

Insert instead “NSW Education Standards Authority Staff Agency”.

4.2 Government Sector Employment Act 2013 No 40

Schedule 1 Public Service agencies

Omit the matter relating to the Board of Studies, Teaching and Educational Standards Staff Agency from Part 3.

Insert in alphabetical order:

NSW Education Standards Authority Staff Agency	Chief Executive Officer of the NSW Education Standards Authority. The Minister administering the <i>Education Standards Authority Act 2013</i> is to exercise the employer functions of the Government in relation to the Chief Executive Officer.
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4.3 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Board of Studies, Teaching and Educational Standards”.

Insert in appropriate order:

NSW Education Standards Authority

[Second reading speech made in—
Legislative Assembly on 21 September 2016
Legislative Council on 12 October 2016]