



New South Wales

Board of Studies, Teaching and Educational Standards Bill 2013

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

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

, 2013



New South Wales

Board of Studies, Teaching and Educational Standards Bill 2013

Act No , 2013

An Act to constitute the Board of Studies, Teaching and Educational Standards; to amend the *Education Act 1990* and the *Institute of Teachers Act 2004*; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Board of Studies, Teaching and Educational Standards Act 2013*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.
- (2) Schedule 5.1 commences on the commencement of the *Government Sector Employment Act 2013*.

3 Definitions

- (1) In this Act:
 - Board** means the Board of Studies, Teaching and Educational Standards constituted under this Act.
 - education and teaching legislation** means any of the following Acts and the regulations and other instruments made under those Acts:
 - (a) this Act,
 - (b) *Education Act 1990*,
 - (c) *Teacher Accreditation Act 2004*.
 - function** includes a power, authority or duty, and **exercise** a function includes perform a duty.
 - inspector** means a person appointed under Part 3.
 - President** means the President of the Board.
- (2) Notes included in this Act do not form part of this Act.

Part 2 Board of Studies, Teaching and Educational Standards

4 Constitution of Board

- (1) There is constituted by this Act a body corporate with the corporate name of the Board of Studies, Teaching and Educational Standards.
- (2) The Board is, for the purposes of any Act, a NSW Government agency.

5 Members of Board

- (1) The Board consists of the following members:
 - (a) the President,
 - (b) 3 persons nominated by the Director-General of the Department of Education and Communities who together have knowledge and expertise in primary and secondary school education and vocational education and training,
 - (c) 19 members appointed by the Minister.
- (2) The appointed members are as follows:
 - (a) one nominee of the New South Wales Vice-Chancellors' Committee,
 - (b) 2 nominees of the Council of the Federation of Parents and Citizens Associations of New South Wales:
 - (i) one representing parents of primary school children and being a parent of a child attending a primary government school, and
 - (ii) the other representing parents of secondary school children and being a parent of a child attending a secondary government school,
 - (c) one nominee of the Catholic Education Commission, New South Wales,
 - (d) one nominee of the Association of Independent Schools,
 - (e) one non-government school teacher (other than a principal), being a nominee of the New South Wales Independent Education Union,
 - (f) one parent of a child attending a non-government school, being a nominee of the Council of Catholic School Parents and the New South Wales Parents' Council,
 - (g) 2 principals of government schools, one being a nominee of the New South Wales Primary Principals Association and the other being a nominee of the New South Wales Secondary Principals' Council,
 - (h) 2 nominees of the New South Wales Teachers Federation, one being a primary government school teacher (other than a principal) and the other being a secondary government school teacher (other than a principal),
 - (i) one person with knowledge and expertise in early childhood education,
 - (j) an Aboriginal person with knowledge and expertise in the education of Aboriginal people,
 - (k) 6 other persons having, in the Minister's opinion, the qualifications or experience to enable them to make a valuable contribution to primary or secondary education in New South Wales.
- (3) Schedule 1 contains provisions relating to the members and procedure of the Board.

6 Objectives and functions of Board

- (1) The principal objective of the Board is to ensure that the school curriculum, forms of assessment and teaching and regulatory standards under the education and teaching legislation are developed, applied and monitored in a way that improves student

learning while maintaining flexibility across the entire school education and teaching sector.

- (2) The Board has the functions conferred or imposed on it by or under:
 - (a) the education and teaching legislation, or
 - (b) any other legislation.
- (3) In particular, the Board 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,
 - (c) the accreditation of teachers and the monitoring of the accreditation process across all schools,
 - (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 on matters relating to the Board's functions,
 - (j) advising the Minister on matters relating to the Board's functions.

7 President of Board

- (1) The Governor may appoint a President of the Board.
- (2) The President is to be appointed on a full-time basis.
- (3) The employment of the President is subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*, but is not subject to Chapter 1A of that Act.

8 Functions of President

The principal functions of the President are:

- (a) to preside over meetings of the Board, and
- (b) to oversee the functions of the Board in accordance with the Board's directions.

9 Acting President

- (1) The Minister may, from time to time, appoint a person to act in the office of President during the illness or absence of the President or during a vacancy in the office of President. The person, while so acting, has all the functions of the President and is taken to be the President.
- (2) The Minister may, at any time, remove a person from office as acting President.
- (3) An acting President is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

10 Staff of Board

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

Note. Those persons are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Office of the Board of Studies, Teaching and Educational Standards. Section 4K of that Act provides that the persons so employed may be referred to

as the staff of the Board. The Chief Executive of the Office is a position created by section 10 of that Act.

11 Committees

- (1) The Board may, with the approval of the Minister, appoint such committees and members of committees as the Board considers appropriate to assist the Board in the exercise of its functions.

Note. The Quality Teaching Council is also established under the *Teacher Accreditation Act 2004* to advise the Board in relation to its functions under that Act.

- (2) The Board is not to appoint a person as a member of a committee of the Board unless the Board is of the opinion that the person has appropriate expertise to make a valuable contribution to the committee.
- (3) It does not matter if any or all of the members of a committee are not members of the Board.
- (4) The procedure of a committee of the Board is to be determined by the Board or (subject to any determination of the Board) by the committee.

12 Delegation of Board's functions

- (1) The Board may delegate to an authorised person or body the exercise of 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) the President or a member of the Board,
- (b) a member of staff of the Board,
- (c) a committee of the Board,
- (d) a person of a class prescribed by the regulations.

Part 3 Inspections

13 Appointment and identification of inspectors

- (1) The Board may appoint a member of staff of the Board, or any other person whose services the Board has arranged to make use of, to be an inspector for the purposes of the education and teaching legislation.
- (2) If a person who is not a member of staff of the Board is appointed as an inspector, the person is, in exercising functions as an inspector, subject to the control and direction of the Board.
- (3) The Board is to cause each inspector to be issued with a means of identification in the form approved by the Board.

14 Inspection of education premises

- (1) An inspector:
 - (a) is at all reasonable times to have full and free access to any education premises and any documents that are on the premises, and
 - (b) may remove, or make copies of, any such document.
- (2) Any such power may be exercised by an inspector only:
 - (a) for the purposes of determining whether there has been compliance with or a contravention of the education and teaching legislation, or
 - (b) for the purposes of obtaining documents for purposes connected with the administration of the education and teaching legislation, or
 - (c) in connection with exercising the functions of an inspector under the education and teaching legislation.
- (3) A person who hinders or obstructs an inspector in exercising any power conferred by this section is guilty of an offence.
Maximum penalty: 5 penalty units.
- (4) A person is not guilty of an offence under subsection (3) because of any act of hindrance or obstruction unless it is established that the inspector:
 - (a) identified himself or herself as an inspector, and
 - (b) warned the person that that act constituted an offence.
- (5) This section does not affect any powers under any other provisions of the education and teaching legislation or under any other legislation.
Note. For example, under section 24 of the *Education Act 1990* an inspector may require the principal of a school to furnish a copy of the register of enrolments and attendances that is required to be kept under that section.
- (6) In this section:
education premises means:
 - (a) any school (including any proposed school in respect of which an application for registration has been made under the *Education Act 1990*), or
 - (b) the premises of an approved provider within the meaning of Part 7A of the *Education Act 1990*.

Part 4 Miscellaneous

15 Board of Studies, Teaching and Educational Standards Fund

- (1) There is to be established in the Special Deposits Account a Board of Studies, Teaching and Educational Standards Fund (the *Fund*) into which is to be paid:
 - (a) the fees and charges payable to the Board under the *Teacher Accreditation Act 2004*, and
 - (b) any money appropriated by Parliament for the purposes of the Board, and
 - (c) the proceeds of any property acquired by the Board under section 19, and
 - (d) any other money required by or under this or any other Act to be paid into the Fund.
- (2) There is to be paid from the Fund:
 - (a) all amounts required to meet expenditure incurred by the Board in exercising its functions and in the administration of the education and teaching legislation, and
 - (b) any allowances paid to members of the Quality Teaching Council established under the *Teacher Accreditation Act 2004*, and
 - (c) any amount authorised by the Minister to be paid from the Fund, and
 - (d) all other payments required by or under this or any other Act to be paid from the Fund.
- (3) Despite subsection (2), money held in the Fund that consists of the fees and charges paid to the Board under the *Teacher Accreditation Act 2004* is to be applied only for the purposes of meeting costs incurred by the Board in connection with the accreditation of teachers under that Act and in monitoring, maintaining and developing teacher quality.
- (4) The Board may invest money in the Fund:
 - (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
 - (b) if that Act does not confer power to invest money held by the Board, in accordance with and subject to the *Trustee Act 1925* and in any other manner approved by the Minister with the concurrence of the Treasurer.

16 Exchange of information

- (1) The Board may enter into an arrangement (an *information sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging any information that is held by the Board or the agency.
- (2) The information to which an information sharing arrangement may relate is limited to the following:
 - (a) any information that assists in the exercise of the functions of the Minister or Board under the education and teaching legislation or of the relevant agency concerned,
 - (b) data relating to the teaching workforce,
 - (c) research on issues relating to teacher quality.
- (3) Under an information sharing arrangement, the Board and the relevant agency are, despite any other Act or law of the State, authorised:
 - (a) to request and receive information that is held by the other party to the arrangement, and

- (b) to disclose that information to the other party.
- (4) This section does not limit the operation of section 83H of the *Education Act 1990* or section 18 (3) of the *Teacher Accreditation Act 2004*.
- (5) In this section:
relevant agency means any of the following:
 - (a) the Department of Education and Communities,
 - (b) a teacher accreditation authority under the *Teacher Accreditation Act 2004*,
 - (c) a university or other tertiary institution,
 - (d) a government agency of the Commonwealth or of another State or Territory with functions similar or related to those of the Board,
 - (e) any other person or body prescribed by the regulations.

17 False or misleading applications etc

- (1) A person must not, in any official document, make a statement that the person knows, or could reasonably be expected to know:
 - (a) is false or misleading in a material respect, or
 - (b) omits material matter.Maximum penalty: 50 penalty units.
- (2) In this section:
official document means any application, instrument or other document that is, for the purposes of the education and teaching legislation, given to or lodged with the Minister or the Board.

18 Protection from personal liability

Anything done or omitted to be done by a person who is:

- (a) a member of the Board or of a committee of the Board, or
- (b) a member of staff of the Board, or
- (c) acting under the direction of the Board,

in exercising functions conferred or imposed on the person by or under the education and teaching legislation, or in the course of the administration of that legislation, does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

19 Board may accept gifts, devises or bequests

- (1) The Board may acquire by gift, devise or bequest any property for the purposes of the education and teacher legislation.
- (2) The Board may agree to the condition to which any such gift, devise or bequest is subject.
- (3) The rule of law relating to perpetuities does not apply to any condition to which the Board has agreed under this section.

20 Service of documents on Board

- (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) 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 the Board in any other manner.

21 Service of documents generally

- (1) A document that is authorised or required by the education and teaching legislation to be served on any person (other than the Board) may be served by:
- (a) in the case of a natural person:
 - (i) delivering it to the person personally, or
 - (ii) sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or
 - (iii) sending it by facsimile transmission to the facsimile number of the person, or
 - (b) in the case of a body corporate:
 - (i) leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or
 - (ii) sending it by facsimile transmission to the facsimile number of the body corporate.
- (2) This section does not affect the operation of any provision of a law or of the rules of a court authorising a document to be served on a person in any other manner.

22 Nature of proceedings for offences

Proceedings for an offence under this Act may be dealt with summarily before the Local Court.

23 Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if it appears to the authorised officer that the person has committed an offence under the education and teaching legislation, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice under this section is declared to be a penalty notice for the purposes of the *Fines Act 1996*.
- (4) A penalty notice may be served personally or by post.
- (5) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (6) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (7) The regulations may:
- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and

- (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (8) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
 - (9) 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.
 - (10) In this section, *authorised officer* means a member of staff of the Board authorised in writing by the Board as an authorised officer for the purposes of this section.

24 Regulations

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.

25 Rules of Board

- (1) The Board may make rules, not inconsistent with the education and teaching legislation, for or with respect to the exercise of any of its functions.
- (2) Without limiting subsection (1), the rules may set out guidelines with respect to the requirements for registration, approval and accreditation under the education and teaching legislation.
- (3) A rule does not take effect unless approved by the Minister.
- (4) A rule is to be published on the Board's website and takes effect on the date of publication or a later date specified in the rule.
- (5) A copy of each rule must be available for public inspection at the Board's office during business hours.

26 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Provisions relating to members and procedure of the Board

(Section 5 (3))

1 Definition

In this Schedule, *appointed member* means a member of the Board referred to in section 5 (1) (c).

2 Nominations for appointed members

- (1) For the purposes of section 5 (2), the Minister may require a body or bodies responsible for nominating a member of the Board to furnish a list of so many nominees as the Minister may specify, from which the Minister may select the nominee to be appointed.
- (2) In default by the nominating body or bodies in complying with the requirement, the Minister may appoint such person as the Minister thinks fit.
- (3) In furnishing a list of nominees, the body or bodies responsible for the nominations is or are required to have regard to the need to nominate both men and women and persons who have professional experience or demonstrated interest in gender issues in education, the education of children with disabilities, Aboriginal education, the education of children from non-English speaking backgrounds, and in primary as well as secondary education.
- (4) The persons so nominated must have the skills, qualifications and experience that the Minister considers to be necessary for appointment as members of the Board.

3 Representation of certain interests

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

- (a) members who have professional experience or relevant expertise in gender issues in education, and
- (b) members who have professional experience or relevant expertise in teacher education and continuing professional development, and
- (c) at least one member who has professional experience or relevant expertise in the education of children with disabilities, and
- (d) at least one member who has professional experience or relevant expertise in Aboriginal education, and
- (e) at least one member who has professional experience or relevant expertise in the education of children from non-English speaking backgrounds, and
- (f) at least one member who has professional experience or relevant expertise in addressing the educational needs of regional and rural communities.

4 Deputy President

The Minister may, on the advice of the President, appoint a member of the Board to be the Deputy President of the Board.

5 Term of office

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

6 Alternative members

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

7 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.

8 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.

9 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 personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a 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, or
 - (i) being a member referred to in section 5 (2) (e)–(h), ceases to hold the qualifications or office necessary for his or her membership.
- (2) The Minister may remove an appointed member from office at any time.

10 Disclosure of pecuniary interests

- (1) A member of the Board who, in terms of any guidelines determined by the Board for the purposes of this clause, has a direct or indirect pecuniary interest:
 - (a) in a matter that is being considered, or is about to be considered, at a meeting of the Board, or
 - (b) in a thing being done or about to be done by the Board,
is to disclose, as soon as possible after the relevant facts have come to the member's knowledge, the nature of the interest at a meeting of the Board.
- (2) After a member has disclosed the nature of an interest in any matter or thing, the member is not, unless the Minister otherwise determines:
 - (a) to be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter, or
 - (b) to exercise any functions under this Act with respect to that thing.
- (3) Even though a member contravenes the provisions of this clause, the contravention does not invalidate any decision of the Board or the exercise of any function under this Act.

11 Effect of certain other Acts

- (1) The statutory provisions 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 a member of the Board or from accepting and retaining any remuneration payable to the person under this Act as a member.
- (3) The office of a member of the Board is for the purposes of any Act to be taken not to be an office or place of profit under the Crown.

12 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.

13 Quorum

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

14 Presiding member

- (1) The President or, in the absence of the President, the Deputy President (or, in the absence of both, another 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 any equality of votes, has a second or casting vote.

15 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.

16 Minutes

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

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

18 First meeting of the Board

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

Schedule 2 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Dissolution of statutory bodies

- (1) The following bodies are dissolved:
 - (a) the Board of Studies,
 - (b) the NSW Institute of Teachers,
 - (c) the Board of Governance for the NSW Institute of Teachers.
- (2) The assets, rights and liabilities of the Board of Studies or the NSW Institute of Teachers immediately before its dissolution become, on that dissolution, the assets, rights and liabilities of the Board of Studies, Teaching and Educational Standards.
- (3) On the dissolution of the Board of Studies, each person appointed as a member of the Board of Studies ceases to hold office as such a member and is taken to be appointed under this Act as a member of the Board of Studies, Teaching and Educational Standards for a period equivalent to the remainder of his or her term of appointment as a member of the Board of Studies and is eligible to be re-appointed at the end of that term.
- (4) The persons who were members of the Board of Governance immediately before its dissolution cease to be members of that Board and are not entitled to any remuneration or compensation because of the loss of that office.
- (5) In this clause:

assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

rights means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

3 References to dissolved statutory bodies

A reference in any other Act, or in any instrument of any kind (including any contract or agreement) to the Board of Studies or the NSW Institute of Teachers is to be construed as a reference to the Board of Studies, Teaching and Educational Standards.

4 Existing President of the Board of Studies

The person holding office as the President of the Board of Studies immediately before the dissolution of the Board of Studies is taken to have been appointed under this Act as the President of the Board of Studies, Teaching and Educational Standards for the balance of the term for which the person was originally appointed as President.

5 Transfer of staff

The persons employed in the following Divisions of the Government Service immediately before the commencement of this clause are transferred to and taken to be employed in the Office of the Board of Studies, Teaching and Educational Standards established under the *Public Sector Employment and Management Act 2002*:

- (a) Office of the Board of Studies,
- (b) Office of the Institute of Teachers,
- (c) Board of Studies Casual Staff Division,
- (d) Board of Studies Inspectors Division,
- (e) Institute of Teachers Special Purpose Division.

6 Existing Board inspectors

Any person employed as a Board inspector within the meaning of Schedule 1A to the *Education Act 1990* immediately before the repeal of that Schedule by this Act is taken to have been appointed by the Board as an inspector under Part 3 of this Act.

7 Continuity of Fund

The Board of Studies, Teaching and Educational Standards Fund established under this Act is a continuation of the Institute of Teachers Fund operating under section 43 of the *Institute of Teachers Act 2004* immediately before the repeal of that section by this Act.

Schedule 3 Amendment of Education Act 1990 No 8

[1] Section 3 Definitions

Omit the definitions of *Board* and *Board inspector* from section 3 (1).

Insert instead in alphabetical order:

Board means the Board of Studies, Teaching and Educational Standards constituted under the *Board of Studies, Teaching and Educational Standards Act 2013*.

inspector means an inspector within the meaning of the *Board of Studies, Teaching and Educational Standards Act 2013*.

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

Insert in alphabetical order:

rules of the Board means rules made by the Board under section 25 of the *Board of Studies, Teaching and Educational Standards Act 2013*.

[3] Section 18 Basic skills testing

Omit “Minister” wherever occurring. Insert instead “Board”.

[4] Sections 24 (2) and 86 (3) (b)

Omit “a Board” wherever occurring. Insert instead “an”.

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

Insert after section 47 (b):

(b1) policies and procedures for the proper governance of the school are in place,

[6] Section 47 (d)

Omit “*Institute of Teachers Act 2004*”. Insert instead “*Teacher Accreditation Act 2004*”.

[7] Section 47 (g) (iv)

Insert at the end of section 47 (g) (iii):

, and

(iv) maintaining a student enrolment and attendance register,

[8] Section 47, note

Omit “Section 131 enables the Board to make rules setting”.

Insert instead “The rules of the Board may set”.

[9] Sections 54, 83D and 121

Omit the sections.

[10] Section 70 Definition of “authorised person”

Omit “any Board”. Insert instead “an”.

[11] Part 9, heading

Omit “**The Board of Studies**”. Insert instead “**Board’s functions**”.

[12] Sections 99–101A, 103–106 and 120

Omit the sections.

[13] Section 102 Functions of the Board under this Act

Insert “under this Act” after “its functions” wherever occurring in section 102 (1) and (3).

[14] Section 102 (2)

Insert “under this Act” after “the following functions”.

[15] Section 102 (2) (l)

Insert “under this Act” after “Board”.

[16] Section 119

Omit the section. Insert instead:

119 Delegation by Minister or Director-General

The Minister or the Director-General may delegate to any person or body the exercise of any of their respective functions under this Act (other than the power of delegation conferred by this section).

Note. The power of the Board to delegate its functions under this Act is contained in the *Board of Studies, Teaching and Educational Standards Act 2013*.

[17] Section 131 Rules of Board

Omit the section.

[18] Schedule 1 Provisions relating to members and procedure of the Board of Studies

Omit the Schedule.

[19] Schedule 1A Board inspectors

Omit the Schedule.

[20] Schedule 3 Savings, transitional and other provisions

Insert after Part 12:

Part 13 Provisions consequent on enactment of Board of Studies, Teaching and Educational Standards Act 2013

28 Registration requirements for non-government schools

The amendments made to section 47 by Schedule 3 to the *Board of Studies, Teaching and Educational Standards Act 2013* extend to an application under Division 3 or 4 of Part 7 of this Act that was made (but not determined) before the commencement of those amendments.

Schedule 4 Amendment of Institute of Teachers Act 2004 No 65

- [1] **Long title**
Omit “to constitute the NSW Institute of Teachers;”.
- [2] **Section 1 Name of Act**
Omit “*Institute of Teachers Act 2004*”. Insert instead “*Teacher Accreditation Act 2004*”.
- [3] **Section 3 Definitions**
Omit the definition of ***Board*** from section 3 (1). Insert instead:
Board means the Board of Studies, Teaching and Educational Standards constituted under the *Board of Studies, Teaching and Educational Standards Act 2013*.
- [4] **Section 3 (1), definitions of “Chairperson”, “Chief Executive” and “Institute”**
Omit the definitions.
- [5] **Section 3 (1), definition of “Director-General”**
Omit “Training”. Insert instead “Communities”.
- [6] **Section 3 (1), definition of “President”**
Insert in alphabetical order:
President means the President of the Board appointed under the *Board of Studies, Teaching and Educational Standards Act 2013*.
- [7] **Sections 3 (1) (definition of “roll of teachers”), 12 (2), 16 (1), 17 (3), 18 (3), 19, 22 (1), 23, 25 (1), 31 (5) (a), 41 (1) and 52 (1A) (b) and clause 7 (3) of Schedule 2**
Omit “Institute” wherever occurring. Insert instead “Board”.
- [8] **Part 2, heading**
Omit “NSW Institute of Teachers”.
Insert instead “**Board’s functions and Quality Teaching Council**”.
- [9] **Part 2, Division 1, heading**
Omit “**Constitution and functions of Institute**”. Insert instead “**Board’s functions**”.
- [10] **Sections 6, 8, 42, 43, 44, 51 and 51A**
Omit the sections.
- [11] **Section 7 Functions of Board under this Act**
Omit section 7 (1), (4) and (6).
- [12] **Section 7 (2), (3) and (5)**
Omit “Institute” wherever occurring. Insert instead “Board under this Act”.
- [13] **Part 2, Divisions 2, 3 and 5**
Omit the Divisions.

[14] Section 12 Establishment and function of Quality Teaching Council

Omit “Institute’s” from section 12 (2). Insert instead “Board’s”.

[15] Section 13 Membership of Council

Omit section 13 (1) (c). Insert instead:

(c) the President.

[16] Section 17 Electoral list

Omit section 17 (1) (c) (i). Insert instead:

(i) in the Department of Education and Communities or as a member of staff of the Board, or

[17] Section 45 Delegations

Insert after section 45 (1):

Note. The power of the Board to delegate its functions under this Act is contained in the *Board of Studies, Teaching and Educational Standards Act 2013*.

[18] Section 45 (2), definition of “office holder”

Omit “, the Director-General or the Chairperson”. Insert instead “or the Director-General”.

[19] Section 48

Omit the section. Insert instead:

48 Protection from personal liability for members of Council

Anything done or omitted to be done by a person who is:

(a) a member of the Council, or

(b) acting under the direction of the Council,

in exercising functions conferred or imposed on the person under this Act or in the course of the administration of this Act does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

[20] Schedule 1 Provisions relating to members and procedure of the Board

Omit the Schedule.

[21] Schedule 2 Provisions relating to members and procedure of the Council

Omit “Chairperson” from the definition of *member* in clause 1 and from clauses 10 (1) and 12 (3) wherever occurring.

Insert instead “President”.

Schedule 5 Amendment of other Acts

5.1 Board of Studies, Teaching and Educational Standards Act 2013

[1] Section 5 Members of Board

Omit “Director-General” from section 5 (1) (b). Insert instead “Secretary”.

[2] Section 7 President of Board

Omit section 7 (2) and (3). Insert instead:

- (2) Schedule 1A contains provisions relating to the President.

[3] Section 10 Staff of Board

Omit the note to the section. Insert instead:

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

[4] Schedule 1A

Insert after Schedule 1:

Schedule 1A Provisions relating to President of the Board

(Section 7 (2))

1 Term of office

The President holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

2 Full-time office

The office of President is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

3 Employment and remuneration

- (1) The employment of the President is (subject to this Schedule) to be governed by a contract of employment between the President and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the President (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):
- (a) provisions relating to the band in which an executive is to be employed,
 - (b) provisions relating to the contract of employment of an executive,
 - (c) provisions relating to the remuneration, employment benefits and allowances of an executive,
 - (d) the provisions relating to the termination of employment of an executive.

4 Vacancy in office

- (1) The office of President becomes vacant if the holder:
 - (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) 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
 - (e) becomes a mentally incapacitated person, or
 - (f) 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, or
 - (g) is removed from office under clause 3.
- (2) If the office of President becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

5 President not Public Service employee

The office of President is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

6 Application of provisions to existing President

The appointment and term of office of the person holding office as President on the commencement of this Schedule are not affected by the other provisions of this Schedule.

5.2 Public Finance and Audit Act 1983 No 152

[1] Schedule 2 Statutory bodies

Omit “NSW Institute of Teachers”. Insert in alphabetical order:

Board of Studies, Teaching and Educational Standards

[2] Schedule 3 Departments

Omit the matter relating to the Office of the Board of Studies.

5.3 Public Sector Employment and Management Act 2002 No 43

[1] Schedule 1 Divisions of the Government Service

Omit the matter relating to the Office of the Board of Studies and the Office of the Institute of Teachers from Division 2 of Part 1.

Insert instead:

Office of the Board of Studies, Teaching and Educational
Standards

Chief Executive of the Office

[2] Schedule 1, Part 3

Omit the matter relating to the following:

Board of Studies Casual Staff Division

Board of Studies Inspectors Division

Institute of Teachers Special Purpose Division

[3] Schedule 2 Executive positions (other than non-statutory SES positions)

Omit “President of the Board of Studies” from Part 3. Insert instead:

President of the Board of Studies, Teaching and Educational Standards