

Board of Vocational Education and Training Act 1994 No 33

[1994-33]



New South Wales

Status Information

Currency of version

Historical version for 24 April 2006 to 29 June 2011 (accessed 11 July 2024 at 22:34)

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Vocational Education and Training \(Commonwealth Powers\) Act 2010 No 131](#) (not commenced — to commence on 30.6.2011)

Authorisation

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File last modified 24 June 2011

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Board of Vocational Education and Training Act 1994 No 33



New South Wales

An Act to establish the New South Wales Board of Vocational Education and Training and to define its objects and functions; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Board of Vocational Education and Training Act 1994*.

2 Commencement

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

3 Definitions

(1) In this Act:

appointed member means a member of the Board appointed by the Minister as referred to in section 5 (2) (b).

Board means the New South Wales Board of Vocational Education and Training constituted by section 5.

Commonwealth Act means the *Australian National Training Authority Act 1992* of the Commonwealth.

function includes a duty; **confer a function** includes impose a duty; **exercise a function** includes perform a duty.

National Statement means the statement set out in Schedule 1 to the Commonwealth Act, being the statement entitled “A National Vocational Education and Training System”, the text of which was agreed to by the Commonwealth and the States and published on 21 July 1992.

(2) In this Act, **National Strategic Plan**, **State Training Agency**, and **State Training Profile** have the same meanings as they have in the National Statement.

4 Object of Act

The object of this Act is to establish the New South Wales Board of Vocational Education and Training as the body to be nominated by the Minister as the State Training Agency for the purposes of the Commonwealth Act.

Part 2 The Board of Vocational Education and Training

5 Constitution of the Board

- (1) There is by this Act constituted a corporation under the corporate name of the New South Wales Board of Vocational Education and Training.
- (2) The Board is to consist of 9 part-time members, of whom:
 - (a) one is to be the Director-General of the Department of Education and Training, and
 - (b) 8 are to be persons appointed by the Minister.
 - (c), (d) (Repealed)
- (3) The appointed members must be persons who, in the opinion of the Minister, have the necessary expertise to enable them to make a valuable contribution to the work and activities of the Board.
- (4) One of the appointed members is, by the instrument of the member's appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chairperson of the Board.
- (5) Schedule 1 has effect with respect to the members and procedure of the Board.
- (6) The Board is, for the purposes of any Act, taken to be a statutory body representing the Crown.

6 Objects of the Board

The Board has the following objects:

- (a) to advise the Minister on State vocational and education training policies in the context of State and national priorities and objectives,
- (b) to promote and develop, in collaboration with other agencies, a State vocational education and training system delivering high quality and nationally recognised programs,
- (c) to prepare, in collaboration with industry and vocational education and training providers, State Training Profiles based on the National Strategic Plan and agreed planning parameters, for approval by the Minister,
- (d) to recommend to the Minister the allocation of resources, including funding, to

achieve optimal effectiveness and efficiency in the State's vocational education and training system,

- (e) to co-ordinate the provision of data on the performance of the State vocational education and training system to the Minister as required,
- (f) to prepare such plans and reports as may be required by the Minister,
- (g) to liaise with the Australian National Training Authority and with the State Training Agencies of other States and Territories,
- (h) to commission and conduct inquiries and foster research in vocational education and training,
- (i) to promote and develop, in consultation with the Vocational Education and Training Accreditation Board, a co-ordinated and effective registration and accreditation framework under the *Vocational Education and Training Act 2005* for vocational education and training,
- (j) to encourage the development of innovative programs and best practices and the creation of new partnerships between the consumers of vocational education and training and public and private providers,
- (k) in collaboration with other agencies, to develop effective communication mechanisms for the dissemination of information about State and national developments in vocational education and training,
- (l) to advise and make recommendations on any matter referred to the Board by the Minister.

7 Functions of the Board

- (1) The Board:
 - (a) has such functions as are necessary or convenient to enable it to achieve its objects, and
 - (b) has such other functions as are conferred on it by or under this or any other Act or law.
- (2) In the exercise of its functions, the Board is subject to the control and direction of the Minister.

8 Minister may nominate the Board to be State Training Agency

The Minister may, by order, nominate the Board as the State Training Agency for New South Wales for the purposes of the Commonwealth Act.

9 Advisory committees

- (1) The Board may establish advisory committees to assist it in the exercise of its functions.
- (2) Any or all of the members of an advisory committee may be persons who are not members of the Board.
- (3) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

10 Delegation by the Board

The Board may delegate to any person or body the exercise of any of its functions, other than this power of delegation.

Part 3 Miscellaneous

11 Exclusion of personal liability

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 or law, subject the member or a person so acting personally to any action, liability, claim or demand.

12 (Repealed)

13 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of this 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 date of assent to this Act.
- (3) A report of 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 The Board of Vocational Education and Training

(Section 5)

Part 1 Members of the Board

1 Terms of office

An appointed member of the Board holds office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if

otherwise qualified) for re-appointment.

2 Remuneration

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

3 Acting members and acting Chairperson

- (1) The Minister may appoint a person to act in the office of an appointed member during the illness or absence of the appointed member, and the acting member, while so acting, has and may exercise all the functions of the appointed member and is taken to be an appointed member.
- (2) A person, in order to be appointed as an acting appointed member, must be qualified for appointment in the same way as the member for whom he or she is acting.
- (3) The Minister may appoint a member of the Board to act in the office of Chairperson during the illness or absence of the Chairperson, and the acting Chairperson, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.
- (4) A person who is acting as an appointed member of the Board, or as the Chairperson, is entitled, while so acting, to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) The Minister may at any time and for any reason remove a person from office as an acting appointed member or acting Chairperson.
- (6) For the purposes of this clause, a vacancy in the office of an appointed member is taken to be an absence from office of the member.

4 Filling of vacancy in office of a member

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

5 Casual vacancies

- (1) An appointed member is taken to have vacated office if the member:
 - (a) dies, or
 - (b) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the

member is excused by the Minister for having been absent from those meetings,
or

(c) 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

(d) becomes a mentally incapacitated person, or

(e) 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

(f) resigns office by instrument in writing addressed to the Minister, or

(g) is removed from office by the Minister under subclause (2).

(2) The Minister may at any time and for any reason remove a person from office as appointed member of the Board.

(3) The Chairperson is taken to have vacated office as Chairperson if the person:

(a) resigns office by instrument in writing addressed to the Minister, or

(b) ceases to be a member of the Board.

6 Conflict of interests

(1) If:

(a) a member of the Board has an 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) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person.
- (4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Board 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.
- (5) For the purpose of the making of a determination by the Board under subclause (4), a member of the Board who has an interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

7 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member of the Board and a member of the Board is not, as a member, subject to that Act.
- (2) If by or under any other Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

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 of the Board.

Part 2 Procedure of the Board

8 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, to be as determined by the Board.

9 Quorum

The quorum for a meeting of the Board is 5 members, of whom one must be the Chairperson.

10 Presiding member

- (1) The Chairperson is to preside at a meeting of the Board.
- (2) The Chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

11 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.

12 Minutes

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

13 First meeting

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

Schedule 2 (Repealed)