

Education Standards Authority Act 2013 No 89

[2013-89]



New South Wales

Status Information

Currency of version

Historical version for 1 December 2018 to 28 November 2021 (accessed 23 December 2024 at 2:53)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Previously named**
Board of Studies, Teaching and Educational Standards Act 2013
- **Does not include amendments by**
[Government Sector Finance Legislation \(Repeal and Amendment\) Act 2018 No 70](#), Sch 4.27 (not commenced)
- **See also**
[Education Legislation Amendment \(Parental Rights\) Bill 2020](#) [Non-government Bill— the Hon Mark Latham, MLC]
[Teacher Accreditation Amendment Bill 2021](#)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 16 November 2021

Education Standards Authority Act 2013 No 89



New South Wales

Contents

Long title	4
Part 1 Preliminary	4
1 Name of Act	4
2 Commencement	4
3 Definitions	4
Part 2 NSW Education Standards Authority	5
Division 1 Constitution and management of Authority	5
4 Constitution of NSW Education Standards Authority	5
5 Role of Minister	5
6 Board of the Authority	5
7 Role of Board	6
8 Chief Executive Officer	7
9 Staff of Authority	7
Division 2 Objectives and functions of Authority	7
10 Charter and annual Statement of Expectations	7
11 Principal objectives of Authority	7
12 Functions of Authority	8
12A Conduct of reviews	8
12B Delegation of functions	9
12C Committees of the Board	9
12D Subcommittees	10

Part 3 Inspections	10
13 Appointment and identification of inspectors	10
14 Inspection of education premises	10
Part 4 Miscellaneous	12
15 Education Standards Authority Fund	12
16 Exchange of information	13
17 False or misleading applications etc	14
18 Protection from personal liability	14
19 Authority may accept gifts, devises or bequests	14
20 Service of documents	14
21 (Repealed)	15
22 Nature of proceedings for offences	15
23 Penalty notices	15
24 Regulations	16
25 Rules of Authority	16
25A Delegation of Minister's functions	16
26 Review of Act	17
Schedule 1 Provisions relating to members and procedure of Board	17
Schedule 1A (Repealed)	20
Schedule 2 Savings, transitional and other provisions	21
Schedules 3-5 (Repealed)	24

Education Standards Authority Act 2013 No 89



New South Wales

An Act to constitute the NSW Education Standards Authority; to amend the [Education Act 1990](#) and the [Institute of Teachers Act 2004](#); and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act is the [Education Standards Authority 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:

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](#).

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.

Note—

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) Notes included in this Act do not form part of this Act.

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.

Part 3 Inspections

13 Appointment and identification of inspectors

- (1) The Authority may appoint a member of staff of the Authority, or any other person whose services the Authority 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 Authority is appointed as an inspector, the person is, in exercising functions as an inspector, subject to the control and direction of the Authority.
- (3) The Authority is to cause each inspector to be issued with a means of identification in the form approved by the Authority.

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

(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.

(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 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).

Part 4 Miscellaneous

15 Education Standards Authority Fund

- (1) There is to be established in the Special Deposits Account the Education Standards Authority Fund (the **Fund**) into which is to be paid:
 - (a) the fees and charges payable to the Authority under the [Teacher Accreditation Act 2004](#), and
 - (b) any money appropriated by Parliament for the purposes of the Authority, and
 - (c) the proceeds of any property acquired by the Authority 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 Authority 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 Committee 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 Authority under the [Teacher Accreditation Act 2004](#) is to be applied only for the purposes of meeting costs incurred by the Authority in connection with the accreditation of teachers under that Act and in monitoring, maintaining and developing teacher quality.
- (4) The Authority may invest money in the Fund:
 - (a) if the Authority is a GSF agency for the purposes of Part 6 of the [Government Sector Finance Act 2018](#)—in any way that the Authority is permitted to invest money under that Part, or

- (b) if the Authority is not a GSF agency for the purposes of Part 6 of the [Government Sector Finance Act 2018](#)—in accordance with and subject to the [Trustee Act 1925](#) and in any other way approved by the Minister with the concurrence of the Treasurer.

16 Exchange of information

- (1) The Authority 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 Authority 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 Authority 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 Authority 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 83S 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 or any other Public Service agency,
 - (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 Authority,
 - (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 Authority.

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 Authority, or
- (c) acting under the direction of the Authority,

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 Authority may accept gifts, devises or bequests

- (1) The Authority may acquire by gift, devise or bequest any property for the purposes of the education and teacher legislation.
- (2) The Authority 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 Authority has agreed under this section.

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.

21 (Repealed)

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) 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.

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 Authority

(1) The Authority may make rules, not inconsistent with the education and teaching legislation, for or with respect to the exercise of any of its functions or any other matter that is required or permitted to be prescribed under that legislation by the rules.

(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.

(3) A rule does not take effect unless approved by the Minister.

(4) A rule is to be published on the Authority'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 Authority's office during business hours.

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.

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 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.

Schedule 1A (Repealed)

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.

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.

Schedules 3-5 (Repealed)