

Queensland



EDUCATION (QUEENSLAND STUDIES AUTHORITY) ACT 2002

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EDUCATION (QUEENSLAND STUDIES AUTHORITY) ACT 2002

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EDUCATION (QUEENSLAND STUDIES AUTHORITY) ACT 2002

[reprinted as in force on 1 January 2003]

An Act to establish the Queensland Studies Authority, to confer functions on the authority including functions about developing and accrediting 1–12 syllabuses and preschool guidelines, testing, assessment, moderation, certification, vocational education and training and tertiary entrance, to establish the Office of the Queensland Studies Authority, and for other purposes

PART 1—PRELIMINARY

Division 1—Introduction

1 Short title

This Act may be cited as the *Education (Queensland Studies Authority) Act 2002*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Division 2—Objects

3 Objects of Act

(1) The objects of this Act are—

- (a) to help schools to achieve quality learning outcomes for their students; and

- (b) to facilitate the transition of students through the sectors of education; and
 - (c) to maintain public confidence in certificates of achievement.
- (2) The objects are to be achieved mainly by—
- (a) establishing the Queensland Studies Authority; and
 - (b) conferring on the authority functions about—
 - (i) the development, and approval, of 1–12 syllabuses and preschool guidelines; and
 - (ii) the accreditation of 1–12 syllabuses and preschool guidelines; and
 - (iii) the testing and assessment of persons; and
 - (iv) moderation; and
 - (v) the issue of certificates of achievement; and
 - (vi) vocational education and training; and
 - (vii) tertiary entrance; and
 - (c) establishing the Office of the Queensland Studies Authority to help the authority in the performance of the authority’s functions.

Division 3—Guiding principles for achieving Act’s objects

4 Guiding principles

The principles intended to guide the achievement of this Act’s objects are the following—

- (a) collaboration and consultation should be promoted—
 - (i) across the sectors of education; and
 - (ii) across State schools and non-State schools;
- (b) students should be encouraged, through flexible learning pathways, to gain—
 - (i) a certificate of achievement on completion of secondary education; or
 - (ii) an equivalent qualification as provided for under the Australian Qualifications Framework;

- (c) the professional role of teachers in schools should be recognised;
- (d) the diverse educational needs of students should be catered for;
- (e) students should be helped to achieve their educational career goals.

Division 4—Interpretation

5 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS OF QUEENSLAND STUDIES AUTHORITY

Division 1—Establishment

6 Establishment of authority

- (1) The Queensland Studies Authority is established.
- (2) The authority—
 - (a) is a body corporate; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name.

Division 2—Functions

7 Authority's functions

This division states the authority's functions.

8 Development functions

The authority has the following functions—

- (a) to develop and revise 1–12 syllabuses and preschool guidelines;
- (b) to approve 1–12 syllabuses and preschool guidelines, developed or revised by the authority, for implementation at schools;
- (c) to develop and revise documents to support the implementation at schools of approved syllabuses or approved preschool guidelines;
- (d) to develop resources and services for the professional development of teachers, in support of the implementation at schools of approved syllabuses or approved preschool guidelines.

9 Accreditation function

The authority has the function to accredit 1–12 syllabuses and preschool guidelines, developed by entities other than the authority, for implementation at schools.

10 Testing functions

The authority has, for a test required under a regulation,¹ the following functions—

- (a) to develop, revise and mark the test;
- (b) to develop procedures for the administration of the test by schools or the authority;
- (c) to analyse systemic information about the performance of persons who undertook the test and to report the results of the analysis to the Minister, the chief executive, AISQ and QCEC;
- (d) to give the principal of a school individual results of the school's students who undertook the test;
- (e) to give a person who undertook the test the person's results in the test.

¹ See section 19(1) (Tests).

11 Assessment functions

(1) The authority has the function to decide on procedures, and to carry out arrangements, for the assessment of persons in an area of learning for which the results may be recorded on a certificate of achievement.

(2) Also, the authority has, for an assessment prescribed under a regulation, the following functions—

- (a) to develop and revise documents for the assessment;
- (b) to develop procedures for the administration of the assessment.

(3) In addition, the authority has the following functions—

- (a) to collect, and analyse, assessment data;
- (b) to report the results of the analysis to the Minister, the chief executive, AISQ and QCEC.

12 Moderation function

The authority has the function to decide on procedures, and to make arrangements, for moderation.

13 Certification functions

(1) The authority has the following functions—

- (a) to issue certificates of achievement of the type provided for under a regulation;
- (b) to review, and to make recommendations to the Minister about, the requirements for issuing certificates of achievement;
- (c) to inform the public about—
 - (i) each type of certificate of achievement; and
 - (ii) the requirements for issuing each type of certificate of achievement.

(2) Also, the authority has the function to approve work programs for an area of learning, for which the results may be recorded on a type of certificate of achievement prescribed under a regulation.

(3) In addition, the authority has the function to recognise the results of a person, in a non-authority area of learning, that may be recorded on a certificate of achievement.

14 Vocational education and training functions

The authority has the following functions—

- (a) to exercise powers delegated to the authority, by the Training Recognition Council, under the *Training and Employment Act 2000*, section 186;²
- (b) to inform the public about—
 - (i) vocational education and training courses accredited under the delegation; and
 - (ii) vocational placement schemes recognised under the delegation; and
 - (iii) training organisations registered under the delegation;
- (c) to advise the Minister administering the vocational education and training department about vocational education and training matters relevant to the authority's functions.

15 Tertiary entrance functions

The authority has the following functions—

- (a) after consulting with the Minister, to decide the authority's tertiary entrance procedures and requirements;
- (b) to rank persons as a basis for tertiary entrance as provided for under the authority's tertiary entrance procedures and requirements;
- (c) to issue tertiary entrance statements;
- (d) to monitor, review, and recommend to the Minister changes to, the tertiary entrance requirements of tertiary institutions established in the State;
- (e) to inform the public about tertiary entrance procedures and requirements;
- (f) to confer and collaborate about tertiary entrance with the following, and other, entities having an interest in tertiary education—
 - (i) universities;

² *Training and Employment Act 2000*, section 186 (Delegation by council)

- (ii) TAFE institute councils of TAFE institutes established under the *Training and Employment Act 2000*;
 - (iii) Queensland Tertiary Admissions Centre Ltd ACN 050 542 633;
 - (iv) the department in which the *Education (General Provisions) Act 1989* is administered;
 - (v) AISQ and QCEC;
 - (vi) the principals of schools;
 - (vii) the vocational education and training department;
 - (viii) industry training advisory bodies, and group training organisations, recognised under the *Training and Employment Act 2000*;
- (g) to review, and to make recommendations to the Minister about, tertiary entrance.

16 Research function

The authority has the function to undertake research about matters relevant to its functions stated in sections 8 to 15 and 17.

17 Other functions

The authority also has the following functions—

- (a) to decide the equivalent level of school education, or school qualification, in the State of a level of education reached, or qualification obtained, by a person at an educational institution established outside the State;
- (b) to give a person, on request, a copy of a certificate, about the completion of the person's studies, under the *Education Act 1964* or the *Education (Senior Secondary School Studies) Act 1988*, or a certificate of achievement, that was issued to the person;
- (c) to advise the Minister, and inform the public, about matters relevant to the authority's functions;
- (d) to give information, obtained by the authority in the performance of its functions, to the Commonwealth, a State or an entity of the Commonwealth or a State;

- (e) to perform other functions conferred on the authority under this, or another, Act.

Division 3—Authority's powers

18 Powers of authority

(1) The authority has all the powers of an individual, and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, dispose of, and deal with, property; and
- (c) appoint agents and attorneys; and
- (d) engage consultants; and
- (e) produce documents in performing its functions; and
- (f) charge for advertising in the documents; and
- (g) fix charges, and other terms, for services and other facilities it supplies; and
- (h) do anything else necessary or convenient to be done in performing its functions.

(2) However, the authority must not enter into an agreement about real property, including, for example, leasing premises for its accommodation, unless the Minister has approved its entering into the agreement.

(3) Without limiting subsection (1), the authority has the powers given to it under this, or another, Act.

(4) The authority may exercise its powers inside or outside Queensland.

(5) Without limiting subsection (4), the authority may exercise its powers outside Australia.

Division 4—Tests and notifications of syllabuses and preschool guidelines

19 Tests

(1) A regulation may require the authority to develop tests for the assessment of particular skills or knowledge of persons.

Examples of a test—

1. A test to assess the literacy skills of students in the year 5 year of schooling.
2. A core skills test.

(2) After the authority develops or revises a test required under the regulation (an **“approved test”**), it must give notice about the approved test to—

- (a) the Minister; and
- (b) the governing body of each non-State school.

(3) If a school administers an approved test, the school’s principal must give the authority the test script of each of the school’s students who undertook the test.

(4) This section is subject to section 21.

20 Notification of approved or accredited syllabus or preschool guideline

(1) This section applies if the authority—

- (a) approves a 1–12 syllabus or preschool guideline developed or revised by it under this Act; or
- (b) accredits a 1–12 syllabus or preschool guideline under this Act.

(2) The authority must, after the approval or accreditation, give notice about the approved syllabus, approved preschool guideline, accredited syllabus or accredited preschool guideline to—

- (a) the Minister; and
- (b) the governing body of each non-State school.

(3) This section is subject to section 21.

21 Notice to be given to nominated body

(1) If a non-State school's governing body gives the authority a notice asking that notices mentioned in this division be given to a nominated body instead of the governing body, the authority must comply with the request.

(2) If the authority complies with the request, it is taken to have complied with the requirement that a notice mentioned in this division be given by it to the governing body.

**PART 3—MINISTER'S POWERS IN RELATION TO
AUTHORITY****22 Minister may refer matter to authority**

(1) If the Minister considers there is a matter relevant to the authority's functions that the authority should investigate, the Minister may, by notice given to the authority, refer the matter to the authority for its investigation.

(2) The authority must, after completing the investigation, give the Minister a written report about the matter.

23 Minister's power to give directions in the public interest

(1) The Minister may give the authority a written direction about a matter relevant to its functions if the Minister is satisfied it is necessary to give the direction in the public interest.

(2) Without limiting subsection (1), the direction may be that the authority develop a 1–12 syllabus for a stated area of learning, or a preschool guideline of a stated type, for its approval under this Act.

(3) Also, without limiting subsection (1), the direction may be that the authority must comply with—

- (a) a policy, standard or other instrument applying to a public sector unit; or
- (b) another document, including, for example, another policy, standard or instrument.

(4) The authority must comply with the direction.

(5) The direction can not be about—

- (a) the content of a 1–12 syllabus or preschool guideline; or
- (b) the approval of a 1–12 syllabus or preschool guideline developed or revised by the authority; or
- (c) the accreditation, under this Act, of a 1–12 syllabus or preschool guideline; or
- (d) the approval, under this Act, of a work program for an area of learning; or
- (e) the recording of the results of a particular person, in an area of learning, on a certificate of achievement.

(6) In the authority’s annual report for a financial year, the authority must include copies of all directions given to it under this section in the financial year.

(7) This section is subject to section 76(3).

24 Power to require production of document

(1) The Minister may, by notice given to the authority, require it to make available for inspection by the Minister, or produce to the Minister for inspection, a stated Act document in the possession or control of the authority.

(2) The Act document must be made available for inspection, or produced, at a reasonable time and place stated in the notice.

(3) The Minister may copy the Act document and must return it to the authority after copying it.

(4) In the authority’s annual report for a financial year, the authority must include copies of all notices given to it under this section in the financial year.

(5) In this section—

“**Act document**” means a document relevant to the authority’s functions.

PART 4—MATTERS CONCERNING AUTHORITY

Division 1—Membership

25 Membership of authority

(1) The authority consists of the following—

- (a) the chief executive;
- (b) the chief executive of the vocational education and training department;
- (c) the persons appointed under subsection (2).

(2) The Governor in Council is to appoint the following persons as members of the authority—

- (a) 1 nominee of the Minister;
- (b) 1 nominee of AISQ;
- (c) 1 nominee of QCEC;
- (d) 2 nominees of the Higher Education Forum, at least 1 of whom must have expertise relating to tertiary entrance;
- (e) 2 persons who, at the time of appointment, are parents or guardians of students enrolled at a school, of whom—
 - (i) one is to be nominated by the Queensland Council of Parents' and Citizens' Associations Incorporated; and
 - (ii) one is to be nominated jointly by the Federation of Parents and Friends Associations of Catholic Schools, Queensland and the Independent Parents and Friends Council of Queensland;
- (f) 1 primary school principal and 1 secondary school principal, of whom—
 - (i) one is to be nominated by the chief executive; and
 - (ii) one is to be nominated jointly by AISQ and QCEC;
- (g) 1 teacher of primary education and 1 teacher of secondary education, neither of whom is a school principal, of whom—
 - (i) one is to be nominated by the chief executive; and

- (ii) one is to be nominated jointly by AISQ and QCEC;
- (h) 1 nominee of the Queensland Teachers' Union;
- (i) 1 nominee of the Queensland Independent Education Union of Employees;
- (j) 1 nominee of the Minister administering the vocational education and training department;
- (k) 3 nominees of the Minister, of whom—
 - (i) one is to have expertise in the provision of special education; and
 - (ii) one is to have expertise in the education of Aborigines or Torres Strait Islanders; and
 - (iii) one is to be representative of industry;
- (l) one other person who may be nominated by the Minister.

(3) The Minister's nominees must have the qualifications, experience or standing the Minister considers appropriate for membership of the authority.

(4) The person appointed to be the director may not be an appointed member.

26 Nomination by entities for membership of authority

(1) This section applies to the nomination of a person for membership of the authority by an entity or entities mentioned in section 25(2)(b) to (j).

(2) The Minister must give the entity or entities a notice stating a reasonable time within which it or they may nominate a person for the membership.

(3) If the entity does not nominate, or the entities do not nominate jointly, a person within the time stated in the notice, the Minister may nominate a person for the membership and the nomination is taken to have been made by the entity or entities.

(4) A person nominated under subsection (3) must be a person whom the entity or entities may nominate for membership of the authority as stated in section 25(2).

27 Term of appointment

An appointed member must be appointed for a term of not more than 4 years.

28 Chairperson of authority

(1) The Governor in Council is to appoint the member mentioned in section 25(2)(a) to be the chairperson of the authority.

(2) A person may be appointed as the chairperson at the same time the person is appointed as a member.

(3) The chairperson holds office while a member under section 25(2)(a).

29 Deputy chairperson of authority

(1) The authority must appoint a member as the deputy chairperson of the authority.

(2) The deputy chairperson holds office for the term decided by the authority.

(3) A vacancy occurs in the office of deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or ceases to be a member.

(4) However, a person resigning the office of deputy chairperson may continue to be a member.

(5) The deputy chairperson is to act as chairperson—

- (a) during a vacancy in the office of chairperson; and
- (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

(6) For subsection (5), “**deputy chairperson**” includes a member appointed, under section 33(7),³ to act in the deputy chairperson’s office.

30 Disqualification from membership

(1) A person can not become, or continue as, an appointed member if the person—

3 Section 33 (Leave of absence)

- (a) is, or has been, convicted of an indictable offence; or
- (b) is affected by bankruptcy action.

(2) However, if the Minister considers it would be reasonable, having regard to the circumstances of the indictable offence of which a person has been convicted or the circumstances in which a person has been affected by bankruptcy action, the Minister may—

- (a) if the person was an appointed member when convicted or affected by bankruptcy action—give notice to the chairperson and the person that the person is restored as an appointed member, and may be later reappointed, despite the conviction or being affected by bankruptcy action; or
- (b) otherwise—give written approval for the person to become an appointed member despite the conviction or being affected by bankruptcy action.

(3) On the day the chairperson receives a notice under subsection (2)(a)—

- (a) the person is restored as an appointed member; and
- (b) if another person has been appointed to fill the vacancy—the other person's appointment ends.

(4) If a person is restored as an appointed member under subsection (3), the person's term of office as an appointed member ends when it would have ended if the person had not been convicted of the offence or affected by bankruptcy action.

31 Vacation of office

(1) The office of an appointed member becomes vacant if the member—

- (a) resigns his or her office by signed notice of resignation given to the Minister; or
- (b) can not continue as a member under section 30; or
- (c) is absent, without the authority's permission, from 3 consecutive meetings of which proper notice has been given.

(2) Also, the office of an appointed member becomes vacant if the member was nominated for membership of the authority under a nomination provision and the member stops being a person mentioned in that provision.

(3) In this section—

“meeting” means—

- (a) if the member does not attend—an authority meeting with a quorum present; or
- (b) if the member attends—an authority meeting with or without a quorum present.

“nomination provision” means section 25(2)(f) or (g).⁴

32 When notice of resignation takes effect

A notice of resignation mentioned in section 29(3) or 31(1)(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, the later time.

33 Leave of absence

(1) The Minister may approve a leave of absence for an appointed member (the **“approved absent member”**).

(2) The Minister may appoint someone else to act in the office of the approved absent member while the member is absent on the leave.

(3) If the approved absent member is an eligible person for a nominating entity, the Minister must, before making the appointment, give the entity a notice stating a reasonable time within which it may nominate someone else to act in the office of the approved absent member while the member is absent on the leave.

(4) If the entity does not make the nomination within the time stated in the notice, the Minister may proceed to appoint a person who is an eligible person for the entity.

(5) A person is taken to be an appointed member during the term of the person’s appointment to act in the office of an approved absent member.

(6) The Minister’s power to appoint a person to act in the office of an approved absent member does not limit the Governor in Council’s powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(v).⁵

4 Section 25 (Membership of authority)

5 *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

(7) If the approved absent member is the deputy chairperson, the authority may appoint another member to act in the deputy chairperson's office while the deputy chairperson is absent on the leave.

(8) In this section—

“eligible person”, for a nominating entity, means a person whom the entity may nominate for membership of the authority as stated in section 25(2)(b) to (j).

“nominating entity” means an entity or entities that, under section 25(2)(b) to (j), may nominate, or nominate jointly, a person to be a member.

34 Remuneration of an appointed member

An appointed member is entitled to be paid the fees and allowances decided by the Governor in Council.

Division 2—Authority business

35 Conduct of business

Subject to this division, the authority must conduct its business, including its meetings, in the way it considers appropriate.

36 Times and places of authority meetings

(1) Meetings of the authority must be held at the times and places the executive committee decides.

(2) However, the executive committee must call a meeting if asked, in writing, to do so by the Minister or at least the number of members required to form a quorum for the authority.

(3) The authority must meet as often as necessary for it to perform its functions.

(4) Without limiting subsection (3), the authority must meet at least 6 times a year.

37 Quorum

A quorum for the authority is the number equal to one-half of the number of its members or, if one-half is not a whole number, the next highest whole number.

38 Presiding at authority meetings

(1) The chairperson must preside at all authority meetings at which the chairperson is present.

(2) If the chairperson is absent from an authority meeting, but the deputy chairperson is present, the deputy chairperson must preside.

(3) If the chairperson and deputy chairperson are both absent from an authority meeting or the offices are vacant, a member chosen by the members present must preside.

(4) In this section—

“**deputy chairperson**” includes a member appointed, under section 33(7),⁶ to act in the deputy chairperson’s office.

39 Official member may appoint nominee

(1) An official member may, in writing, appoint a person (the “**official member’s nominee**”) to attend authority meetings and executive committee meetings in place of the official member during any period, or during all periods, when the official member can not attend for any reason.

(2) When making the appointment, if practicable, the official member must appoint a person who has previously attended the meetings as the official member’s nominee.

(3) The official member’s nominee must be a public service officer who is appropriately qualified to exercise the official member’s powers.

(4) The official member must give the chairperson notice of—

(a) the appointment; and

(b) if the instrument of appointment is amended or revoked—the amendment or revocation.

6 Section 33 (Leave of absence)

40 Attendance by proxy by member

(1) A member may, not more than twice in a year, attend an authority meeting by proxy.

(2) A member is not entitled to preside at an authority meeting merely because the member is the proxyholder for another member who, if present, would be entitled to preside.

41 Participation of director in authority meetings

(1) The director may participate in any of the authority's deliberations, but has no voting rights at an authority meeting.

(2) For subsection (1), the chairperson must give the director timely notice of an authority meeting.

(3) An authority meeting is not invalid merely because the chairperson has not, for the meeting, complied with subsection (2).

42 Conduct of meetings

(1) A question at an authority meeting is to be decided by a majority of the votes of the members present.

(2) Each member present at an authority meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

(3) A member present at an authority meeting who abstains from voting is taken to have voted for the negative.

(4) The authority may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meetings, including, for example, teleconferencing.

(5) A member who takes part in an authority meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by the authority, even if it is not passed at an authority meeting, if—

- (a) notice of the resolution is given under procedures approved by the authority; and

- (b) a majority of the members gives written agreement to the resolution.

43 Minutes

The authority must keep minutes of its meetings.

44 Disclosure of interest

(1) This section applies to a member (the “**interested member**”) if—

- (a) the interested member has a direct or indirect interest in an issue being considered, or about to be considered, by the authority; and
- (b) the interest could conflict with the proper performance of the interested member’s duties for considering the issue.

(2) As soon as practicable after the relevant facts come to the interested member’s knowledge, the interested member must disclose the nature of the interest to an authority meeting.

(3) Unless the authority otherwise directs, the interested member must not—

- (a) be present when the authority considers the issue; or
- (b) take part in a decision of the authority about the issue.

(4) The interested member must not be present when the authority is considering whether to give a direction under subsection (3).

(5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—

- (a) be present when the authority is considering whether to give a direction mentioned in subsection (3) about the interested member; or
- (b) take part in making the decision about giving the direction.

(6) If—

- (a) because of this section, a member is not present at an authority meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the member were present;

the remaining members present are a quorum of the authority for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

(7) A disclosure under subsection (2) must be recorded in the authority's minutes of its meetings.

Division 3—Authority committees

45 Executive committee

(1) There is an executive committee of the authority.

(2) The members of the executive committee are as follows—

- (a) the chairperson;
- (b) the official members;
- (c) the members mentioned in section 25(2)(b) and (c).⁷

(3) The executive committee must set the agenda for each meeting of the authority held under section 36(1).⁸

(4) Also, the executive committee must perform functions conferred on the committee by the authority and report to the authority as required by the authority.

46 Participation of director in executive committee meetings

(1) The director may participate in any of the executive committee's deliberations, but has no voting rights at an executive committee meeting.

(2) For subsection (1), the chairperson must give the director timely notice of an executive committee meeting.

(3) A meeting of the executive committee is not invalid merely because the chairperson has not, for the meeting, complied with subsection (2).

7 Section 25 (Membership of authority)

8 Section 36 (Times and places of authority meetings)

47 Other committees

(1) The authority may establish committees of the authority for effectively and efficiently performing the authority's functions.

(2) A committee may include a person who is not a member of the authority.

(3) The authority must decide the terms of reference of a committee.

(4) The functions of a committee are—

(a) to advise and make recommendations to the authority about matters, relevant to the authority's functions, referred by the authority to the committee; and

(b) to exercise powers delegated to it by the authority.⁹

(5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the authority.

(6) The authority may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

48 Remuneration of authority committee members

A member of an authority committee is entitled to be paid the fees and allowances decided by the Governor in Council.

*Division 4—Financial provisions***49 Authority is statutory body under the Financial Administration and Audit Act 1977**

The authority is a statutory body under the *Financial Administration and Audit Act 1977*.

⁹ See section 55 (Delegation by authority) for the authority's power of delegation.

50 Authority is statutory body under the Statutory Bodies Financial Arrangements Act 1982

(1) The authority is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B¹⁰ sets out the way in which the authority's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

51 Budget

(1) The authority must, for each financial year, develop, adopt and give to the Minister a budget by the day the Minister directs.

(2) A budget has no effect until approved by the Minister.

(3) In a financial year, the authority may develop, adopt and give to the Minister amendments to its approved budget for the financial year.

(4) An amendment has no effect until approved by the Minister.

52 Compliance with approved budget

(1) The authority must comply with its approved budget for a financial year.

(2) If the authority makes a disbursement in a financial year that is not provided for in its approved budget for the financial year, the members who knowingly agreed to the disbursement (the “**relevant members**”) are jointly and severally liable to repay the amount of the disbursement to the authority.

(3) A person appointed in writing by the Minister for the purpose may recover, on the authority's behalf, the amount from the relevant members as a debt.

¹⁰ *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

Division 5—Other provisions about the authority**53 Performance of authority**

(1) The Minister has responsibility to ensure the authority operates to best practice standards.

(2) To help the Minister discharge the responsibility, the authority must report to the Minister, when and in the way required by the Minister, on the efficiency, effectiveness, economy and timeliness of the authority and its systems and processes, including operational processes.

(3) The authority must comply with a Ministerial request under this section.

(4) In the authority's annual report for a financial year, the authority must include copies of all Ministerial requests made under this section in the financial year.

54 Change in requirements for certification

In effecting a change in the requirements for the issue of a type of certificate of achievement, the authority must ensure a person who is subject to the requirements that are to be changed is not disadvantaged by the change.

55 Delegation by authority

(1) The authority may delegate its powers under this Act to—

- (a) a member; or
- (b) an authority committee; or
- (c) the director; or
- (d) an appropriately qualified member of the office's staff.

(2) However, the authority may not delegate its power under this Act—

- (a) to approve a 1–12 syllabus or preschool guideline; or
- (b) to accredit a 1–12 syllabus or preschool guideline.

56 Time within which authority to do something under this Act

(1) This section applies if—

- (a) the authority is to do something under this Act after the happening of an event; and
- (b) the Act does not state a time within which the authority must do the thing.

(2) The authority must do the thing as soon as practicable after the event happens.

**PART 5—OFFICE OF THE QUEENSLAND STUDIES
AUTHORITY***Division 1—Establishment***57 Establishment of office**

- (1) The Office of the Queensland Studies Authority is established.
- (2) The office consists of the director and the staff of the office.

*Division 2—Office's function and powers***58 Function and powers**

(1) The office's function is to help the authority in the performance of its functions.

(2) The office may do anything necessary or convenient to be done in performing its function.

*Division 3—The director***59 Appointment of director**

- (1) There is to be a director of the office.

(2) The director is to be appointed by the Governor in Council.

(3) The director is appointed for the term stated in the instrument of appointment, and is eligible for reappointment.

(4) The stated term must not be longer than 5 years.

(5) The *Public Service Act 1996* does not apply to the appointment of the director.

60 Terms of appointment

(1) The director is to be paid the remuneration and allowances decided by the Governor in Council.

(2) The director holds office on terms, not provided for by this Act, decided by the Governor in Council.

61 Function of director

(1) Subject to direction by the authority, the director is to control the office and is responsible for its efficient and effective administration and operation.

(2) Subsection (1) does not prevent the attachment of the office to the department for the purpose of ensuring the office is supplied with the administrative support services that it requires to carry out its functions effectively and efficiently.

62 Director must act independently etc.

In performing the director's functions and exercising the director's powers, the director—

- (a) must act independently, impartially, fairly and in the public interest; and
- (b) is not under the control or direction of the Minister.

63 Delegation by director

The director may delegate the director's powers under this Act to an appropriately qualified member of the office's staff.

64 Resignation

The director may resign by signed notice given to the Minister.

65 Ending of appointment

The Governor in Council may end the appointment of the director if the director—

- (a) is convicted of an indictable offence; or
- (b) is guilty of misconduct that could warrant dismissal from the public service if the director were a public service officer; or
- (c) is guilty of neglect of duty or incompetence; or
- (d) becomes incapable of satisfactorily performing the director's functions.

66 Preservation of rights

(1) This section applies if a public service officer is appointed as the director.

(2) The person retains and is entitled to all rights that have accrued to the person because of employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as the director were a continuation of service as a public service officer.

(3) At the end of the person's term of appointment or on resignation—

- (a) the person is entitled to be employed as a public service officer—
 - (i) at the classification level at which the person would have been employed if the person had continued in employment as a public service officer; and
 - (ii) on the remuneration to which the person would have been entitled if the person had continued in employment as a public service officer; and
- (b) the person's service as the director is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

67 Superannuation for director who was previously a public service officer

(1) This section applies if a public service officer is appointed as the director and immediately before the appointment the public service officer was a member of the State Public Sector Superannuation Scheme under the *Superannuation (State Public Sector) Act 1990*.

(2) The person continues to be eligible to be, and to be, a member of the scheme.

68 Acting director

The Minister may appoint a person to act as the director—

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the director is absent from duty or can not, for another reason, perform the functions of that office.

Division 4—Staff of the office**69 Office staff**

The staff of the office are to be employed under the *Public Service Act 1996*.

PART 6—MISCELLANEOUS**70 Protecting persons from liability**

(1) The following persons are not civilly liable for an act done, or omission made, honestly and without negligence under this Act—

- (a) the Minister;
- (b) a member;
- (c) a member of a committee of the authority, established under section 47(1), who is not a member of the authority.

(2) If subsection (1) prevents a civil liability attaching to a person, the liability attaches instead to the State.

71 Approval of forms

The authority may approve forms for use under this Act.

72 Delegation by Minister

(1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified person.

(2) However, the Minister may not delegate the Minister's power under section 22(1), 23(1), 24(1) or 53(2).¹¹

73 Administrative support for authority

(1) The authority may make arrangements for administrative support services for the authority.

(2) If the authority makes arrangements with the chief executive to provide 1 or more services for the authority, the arrangement must include a provision about the authority paying the department a reasonable amount for the service.

74 Authority's annual report

In the authority's annual report for a financial year, the authority must include details of any powers delegated by the Training Recognition Council to the authority, in the financial year, under the *Training and Employment Act 2000*, section 186.¹²

11 Section 22 (Minister may refer matter to authority), 23 (Minister's power to give directions in the public interest), 24 (Power to require production of document) or 53 (Performance of authority)

12 *Training and Employment Act 2000*, section 186 (Delegation by council)

75 Privacy

In performing a function to give information to an entity, the authority must be satisfied there are arrangements in place sufficient to ensure the privacy of individuals is protected.

76 Powers of Minister administering vocational education and training department

(1) The purpose of this section is to confer on the Minister administering the vocational education and training department powers in relation to the authority's functions mentioned in section 14.

(2) Sections 22 and 24 apply as if—

- (a) the reference to the Minister were a reference to the Minister administering the vocational education and training department; and
- (b) the reference to the authority's functions were a reference to the authority's functions mentioned in section 14.

(3) For a direction mentioned in section 23(1) about the authority's functions mentioned in section 14—

- (a) the direction must be given jointly by the Minister and the Minister administering the vocational education and training department; and
- (b) the Minister and the Minister administering the vocational education and training department must be jointly satisfied it is necessary to give the direction in the public interest.

77 Review of Act

(1) The Minister must, before the third anniversary of the date of assent of this Act, start a review of this Act to ensure it is adequately meeting community expectations and its provisions remain appropriate.

(2) The Minister must, as soon as practicable after the review is finished, cause a report of the outcome of the review to be laid before the Legislative Assembly.

78 Guidelines

(1) The authority may make guidelines as provided under a regulation.

(2) If a guideline is inconsistent with this Act or the regulation, the guideline is invalid to the extent of the inconsistency.

(3) A guideline—

(a) must be notified in the way required by the regulation; and

(b) takes effect on the day of its notification or, if a later day or time is fixed in the guideline, on the day or at the time fixed.

(4) On the day a guideline is notified under subsection (3)(a) or as soon as practicable after that day, copies of the guideline must be available to be obtained, by purchase or otherwise, at the place or at each of the places stated in the notice.

(5) Failure to comply with subsection (4) does not affect the validity of the notification under subsection (3)(a).

79 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about the following—

(a) the accreditation by the authority of 1–12 syllabuses or preschool guidelines, for implementation at schools;

(b) the approval by the authority of work programs for an area of learning, for which the results may be recorded on a type of certificate of achievement mentioned in section 13(2);¹³

(c) the recognition of a person's results, in a non-authority area of learning, that may be recorded on a certificate of achievement;

(d) the issuing of certificates of achievement;

(e) the testing of persons;

(f) deciding the equivalence, in the State, of a level of school education reached, or a school qualification obtained, by a person at an educational institution established outside the State;

(g) the assessment of persons;

13 Section 13 (Certification functions)

- (h) tertiary entrance procedures and requirements, and the issuing of tertiary entrance statements;
- (i) the review of decisions, under this Act, of the authority or an authority committee;
- (j) the review by the authority of information contained in a tertiary entrance statement issued to a person under this Act;
- (k) the verification of information contained in a certificate of achievement issued to a person;
- (l) fees, including the refunding of fees, for this Act.

PART 7—REPEAL AND TRANSITIONAL PROVISIONS

Division 1—Repeal of Acts

80 Repeal

The following Acts are repealed—

- Education (School Curriculum P-10) Act 1996 (1996 Act No. 65)
- Education (Senior Secondary School Studies) Act 1988 (1988 Act No. 95)
- Education (Tertiary Entrance Procedures Authority) Act 1990 (1990 Act No. 92).

Division 2—Transitional provisions

81 Definitions for div 2

In this division—

“**commencement**” means commencement of this section.

“**former body**” means—

- (a) the Queensland School Curriculum Council (P-10) under the *Education (School Curriculum P-10) Act 1996*; or

- (b) the Board of Senior Secondary School Studies under the *Education (Senior Secondary School Studies) Act 1988*; or
- (c) the Tertiary Entrance Procedures Authority under the *Education (Tertiary Entrance Procedures Authority) Act 1990*.

“repealed Act” means any of the following Acts—

- *Education (School Curriculum P-10) Act 1996*
- *Education (Senior Secondary School Studies) Act 1988*
- *Education (Tertiary Entrance Procedures Authority) Act 1990*.

82 Dissolution of former bodies

The former bodies are dissolved and their members go out of office.

83 References to repealed Act or former body

(1) In an Act or document, a reference to a repealed Act may, if the context permits, be taken as a reference to this Act.

(2) A reference in an Act or document to a former body may, if the context permits, be taken as a reference to the authority.

84 Authority is the legal successor

(1) The authority is the successor in law of each former body.

(2) Sections 85 and 86 do not limit subsection (1).

85 Agreements and proceedings

(1) An agreement or arrangement, in force immediately before the commencement, between a former body and another entity is taken to be an agreement or arrangement between the authority and the entity.

(2) A proceeding that could have been started or continued by or against a former body before the commencement may be started or continued by or against the authority.

86 Assets and liabilities

On the commencement, an asset or liability of a former body immediately before the commencement becomes an asset or liability of the authority.

87 Preschool guidelines and syllabuses

(1) A preschool guideline that immediately before the commencement is an approved syllabus under the *Education (School Curriculum P-10) Act 1996* for the preschool year of schooling is taken to be an approved preschool guideline for the preschool year of schooling.

(2) A syllabus that immediately before the commencement is an approved syllabus under the *Education (School Curriculum P-10) Act 1996* for a subject is taken to be an approved syllabus for the subject.

(3) A syllabus developed and approved by the Board of Senior Secondary School Studies under the *Education (Senior Secondary School Studies) Act 1988* for a subject, the approval of which is current immediately before the commencement, is taken to be an approved syllabus for the subject.

(4) A study area specification approved by the Board of Senior Secondary School Studies under the *Education (Senior Secondary School Studies) Act 1988* for a subject, the approval of which is current immediately before the commencement, is taken to be an approved syllabus for the subject.

(5) A syllabus developed by an entity other than the Board of Senior Secondary School Studies under the *Education (Senior Secondary School Studies) Act 1988* and approved by the Board under that Act for a subject, the approval of which is current immediately before the commencement, is taken to be an accredited syllabus for the subject.

(6) A syllabus developed and approved by the Board of Senior Secondary School Studies under the *Education (Senior Secondary School Studies) Act 1988* for a vocational education program for students in years 11 and 12 years of schooling, the approval of which is current immediately before the commencement, is taken to be an approved syllabus for the program.

88 Work program

A work program approved by the Board of Senior Secondary School Studies under the *Education (Senior Secondary School Studies) Act 1988* for a subject, the approval of which is current immediately before the commencement, is taken to be a work program approved under this Act for the corresponding area of learning.

89 Possible issue of certificate of achievement not to be jeopardised

(1) This section applies to a person who, immediately before the commencement, was undertaking the study of an area of learning that may have led to the issue of a certificate of achievement to the person under a repealed Act.

(2) The person must not be disadvantaged because of the transition from the repealed Act to this Act.

SCHEDULE 2

DICTIONARY

section 5

“1–12 syllabus” means a syllabus for an area of learning in 1 or more of the years 1 to 12 years of schooling.

“accredited preschool guideline” means a preschool guideline accredited, by the authority under this Act, for the preschool year of schooling.

“accredited syllabus”, for an area of learning, means a 1-12 syllabus accredited, by the authority under this Act, for the area of learning.

“affected by bankruptcy action”, in relation to a person, means the person—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.

“AISQ” means The Association of Independent Schools of Queensland Inc.

“annual report”, of the authority, means the authority’s annual report under the *Financial Administration and Audit Act 1977*.

“appointed member” means a person appointed as a member under section 25(2).

“appropriately qualified”, in relation to a power, means having the qualifications, experience or standing appropriate to exercise the power.

“approved preschool guideline” means a preschool guideline developed or revised, and approved, by the authority under this Act for the preschool year of schooling.

“approved syllabus”, for an area of learning, means a 1–12 syllabus developed or revised, and approved, by the authority under this Act for the area of learning.

SCHEDULE 2 (continued)

“area of learning” includes—

- (a) a subject; and
- (b) a vocational education program.

“assessment data” means the results of school-based assessment of persons’ achievement in an area of learning.

“Australian Qualifications Framework” means the national framework of educational qualifications—

- (a) approved by the Ministerial Council for Education, Employment, Training and Youth Affairs; and
- (b) stated in the implementation handbook for that framework published by the Australian Qualifications Framework Advisory Board, as in force from time to time.¹⁴

“Australian Qualifications Framework Advisory Board” means the board by that name established by the Ministerial Council for Education, Employment, Training and Youth Affairs.

“authority” means the Queensland Studies Authority.

“authority committee” means—

- (a) the executive committee; or
- (b) a committee of the authority established under section 47(1).

“certificate of achievement” means a certificate, issuable under this Act, recording details of a person’s achievement in the study of an area of learning.

“chairperson” means the chairperson of the authority appointed under section 28(1).

“convicted” means found guilty, or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

“deputy chairperson” means the deputy chairperson of the authority appointed under section 29(1).

“director” means the director of the office appointed under section 59.

¹⁴ The implementation handbook may be inspected during business hours at the office from which the Office of the Queensland Studies Authority operates or viewed at the website at <http://www.curriculum.edu.au/aqfab.htm>

SCHEDULE 2 (continued)

“executive committee” means the committee established under section 45.

“guardian”, of a student, means a person who is recognised in law as having all the duties, powers, responsibilities and authority that, by law, parents have in relation to their children.¹⁵

“Higher Education Forum” means the entity by that name whose membership includes the following—

- (a) the vice-chancellors of universities established in the State;
- (b) the chief executive;
- (c) a nominee of the Minister administering the vocational education and training department.

“member” means—

- (a) an official member; or
- (b) an appointed member.

“moderation” means the process under which assessment data is moderated to ensure comparability, across the State, of the assessing teachers’ judgments in deciding results.

“non-authority area of learning” means an area of learning—

- (a) in which a person’s results are not subject to the authority’s procedures for moderation; and
- (b) for which the authority does not, under this Act, approve work programs.

“non-State school” means a school that is provisionally accredited, or accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*.

“notice” means written notice.

“office” means the Office of the Queensland Studies Authority.

“official member” means a member mentioned in section 25(1)(a) or (b).

“parent”, of a student, includes—

¹⁵ See the *Family Law Act 1975* (Cwlth), part 7 (Children), division 2 (Parental responsibility).

SCHEDULE 2 (continued)

- (a) in relation to a student who is an Aboriginal child—a person who, under Aboriginal tradition, is regarded as a parent of the child; and
- (b) in relation to a student who is a Torres Strait Islander child—a person who, under Island custom, is regarded as a parent of the child.

“preschool education” see *Education (General Provisions) Act 1989*, section 2(1).¹⁶

“preschool guideline” means a guideline for the preschool year of schooling.

“primary education” see *Education (General Provisions) Act 1989*, section 2(1).¹⁷

“primary school” means a school, other than a special school, offering education in years 1 to 7 years of schooling.

“principal”, of a school, means the individual in charge of the school.

“QCEC” means the Queensland Catholic Education Commission.

“school” means—

- (a) an educational institution established under the *Education (General Provisions) Act 1989*, section 16, 17 or 18(1)(c);¹⁸ or
- (b) a non-State school.

16 *Education (General Provisions) Act 1989*, section 2(1) provides—

“preschool education” means educational programs appropriate to the needs of children below the age of compulsory attendance and before enrolment in year 1.

17 *Education (General Provisions) Act 1989*, section 2(1) provides—

“primary education” means education offered in years numbered 1 to 7, both inclusive.

18 *Education (General Provisions) Act 1989*, section 16 (Power to establish State schools), 17 (Power to establish other ways of educational instruction) or 18 (Establishment of certain centres, student hostels, student residential colleges and other State educational institutions)

SCHEDULE 2 (continued)

“secondary education” see *Education (General Provisions) Act 1989*, section 2(1).¹⁹

“secondary school” means a school, other than a special school, offering education in years 8 to 12 years of schooling.

“sectors of education” means preschool education, primary education, secondary education, special education and tertiary education.

“special education” see *Education (General Provisions) Act 1989*, section 3(2).²⁰

“special school” means a school providing special education.

“State school” see *Education (General Provisions) Act 1989*, section 2(1).²¹

“students” means persons studying an area of learning within a sector of education.

“syllabus” includes standards of learning, and standards of assessment, for an area of learning.

“teacher” means a person who—

- (a) is registered as a teacher under the *Education (Teacher Registration) Act 1988*; and
- (b) is a member of the educational staff of a school.

“tertiary entrance” means the entrance by persons to tertiary education in Queensland.

“vocational education and training department” means the department in which the *Training and Employment Act 2000* is administered.

19 *Education (General Provisions) Act 1989*, section 2(1) provides—

“secondary education” means education offered in years numbered 8 to 12, both inclusive.

20 *Education (General Provisions) Act 1989*, section 3(2) provides—

“Special education” is the educational programs and services appropriate to the needs of persons with a disability.

21 *Education (General Provisions) Act 1989*, section 2(1) provides—

“State school” means a school at which primary, secondary or special education is provided by the State.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Education (Queensland Studies Authority) Act 2002 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of earlier reprints, see the latest reprint.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF EARLIER REPRINTS

Reprint No.	Amendments included	Effective	Notes
1	none	1 July 2002	

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

6 List of legislation

Education (Queensland Studies Authority) Act 2002 No. 1

date of assent 28 February 2002

ss 1–2 commenced on date of assent

s 9 commenced 1 January 2003 (2002 SL No. 342)

remaining provisions commenced 1 July 2002 (2002 SL No. 154)

7 List of annotations

PART 8—AMENDMENT OF ACTS

pt hdg om R1 (see RA s 7(1)(k))

Consequential and other amendments of Acts

s 90 om R1 (see RA s 40)

SCHEDULE 1—CONSEQUENTIAL AND OTHER AMENDMENTS OF ACTS

om R1 (see RA s 40)