



# **Education (Accreditation of Non-State Schools) Act 2001**

**Reprinted as in force on 31 May 2005**

**Reprint No. 3**

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This Act is reprinted as at 31 May 2005. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- reorder definitions and other provisions consistent with current drafting practice (s 30)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- correct minor errors (s 44).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including table of corrected minor errors**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

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If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

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# **Education (Accreditation of Non-State Schools) Act 2001**

[as amended by all amendments that commenced on or before 31 May 2005]

**An Act to provide for the accreditation of non-State schools, and deciding the eligibility of non-State schools' governing bodies for Government funding for the schools, and for other purposes**

## **Chapter 1      Preliminary**

### **Part 1            Introduction**

#### **1            Short title**

This Act may be cited as the *Education (Accreditation of Non-State Schools) Act 2001*.

#### **2            Commencement**

- (1) The following provisions of this Act commence on the date of assent—
  - (a) sections 4, 132, 176 and 219;
  - (b) parts 1 and 2 of chapter 5;
  - (c) schedules 2 and 3.
- (2) The remaining provisions of this Act commence on 1 January 2002.

## **Part 2                      Objects**

### **3            Objects of Act**

- (1) The objects of this Act are—
  - (a) to uphold the standards of education at non-State schools; and
  - (b) to maintain public confidence in the operation of non-State schools; and
  - (c) to foster educational choices in the State; and
  - (d) to provide the basis for the efficient allocation of Government funding for non-State schools.
- (2) The objects are to be achieved mainly by—
  - (a) establishing the Non-State Schools Accreditation Board; and
  - (b) establishing an accreditation regime for the accreditation of non-State schools complying with the accreditation criteria; and
  - (c) establishing the Non-State Schools Eligibility for Government Funding Committee; and
  - (d) establishing a formal process for deciding the eligibility of a non-State school's governing body for Government funding for the non-State school.

## **Part 3                      Interpretation**

### **4            Dictionary**

The dictionary in schedule 3 defines particular words used in this Act.



## 5 **Meaning of school**

A *school* means a non-State school.

## 6 **Meaning of non-State school**

- (1) A *non-State school* means a school (in the ordinary meaning of the word) established to provide the following types of education—
- (a) preschool education;
  - (b) primary education;
  - (c) secondary education;
  - (d) special education.
- (2) However, a *non-State school* does not include the following—
- (a) a State educational institution within the meaning of the *Education (General Provisions) Act 1989*, section 2(1);<sup>1</sup>
  - (aa) an international educational institution under the *Education (General Provisions) Act 1989*, section 144(1);<sup>2</sup>
  - (b) if there is a dispensation in force under the *Education (General Provisions) Act 1989*, section 115(1)<sup>3</sup> for a child because the child is receiving instruction as mentioned in the *Education (General Provisions) Act 1989*, section 115(2)(a)(i)—the place where the child is receiving the instruction, so far as the place is being used for receiving the instruction;
  - (c) a place where a child undertaking preschool, primary, secondary or special education receives tutorial help relating to the education;

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1 *Education (General Provisions) Act 1989*, section 2 (Interpretation)

2 *Education (General Provisions) Act 1989*, section 144 (Restriction on establishment of places for teaching overseas curriculum)

3 *Education (General Provisions) Act 1989*, section 115 (Dispensation from compliance with compulsory enrolment and attendance provisions)

- (d) a TAFE institute within the meaning of the *Vocational Education, Training and Employment Act 2000*, section 191;<sup>4</sup>
  - (e) a place used only to provide child care.
- (3) In this section—

***child care*** means child care within the meaning of the *Child Care Act 2002*, section 4, but does not include care provided in the course of providing preschool education to children in the year immediately before year 1, primary education, secondary education or special education.

## **7 School not operated for profit**

For this Act, a school is ***not operated for profit*** only if any profits made from the school's operation are used entirely to advance the school's philosophy and aims, as stated in the school's statement of philosophy and aims.

## **7A Meaning of prohibited arrangement**

A ***prohibited arrangement*** is a contract or arrangement entered into by a school's governing body or proposed governing body and a for-profit entity not dealing with each other at arm's length.

## **8 Application of provisions**

- (1) This section applies if a provision of this Act applies another provision of this Act for a purpose.
- (2) The other provision and any definition relevant to the other provision apply with any necessary changes.
- (3) Subsection (2) is not limited merely because a provision states how the other provision is to apply.

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<sup>4</sup> *Vocational Education, Training and Employment Act 2000*, section 191 (What is a TAFE institute)

## **Chapter 2      Accreditation of schools**

### **Part 1            Accreditation criteria**

#### **9            Prescribing accreditation criteria**

A regulation may prescribe criteria (the *accreditation criteria*), relevant to a school's accreditation, about the following—

- (a) the school's administration and governance arrangements;
- (b) the school's financial viability;
- (c) the school's educational program and student welfare processes;
- (d) the school's resources;
- (e) the school's improvement processes.

### **Part 2            Accreditations**

#### **Division 1        Preliminary**

#### **10          Offence of operating a school without accreditation or provisional accreditation**

A person must not operate a school unless—

- (a) the school is accredited; or

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- (b) subject to section 25,<sup>5</sup> the school is provisionally accredited.

Maximum penalty—100 penalty units.

**11 Governing body of provisionally accredited, or accredited, school**

- (1) A school's governing body may apply for the accreditation of the school.
- (2) To be eligible to apply, the governing body must be a corporation.
- (3) The governing body of a provisionally accredited, or accredited, school must always be a corporation.<sup>6</sup>

**12 Type of education**

- (1) A school may only be provisionally accredited, or accredited, to provide the following types of education—
  - (a) preschool education;
  - (b) primary education;
  - (c) secondary education;
  - (d) special education.
- (2) A school may be provisionally accredited, or accredited, to provide preschool education only if the school is also provisionally accredited, or accredited, to provide primary education for at least years 1 to 3.
- (3) To remove doubt, it is declared that a school that is provisionally accredited, or accredited, to provide preschool education, primary education or secondary education, is not also required to be provisionally accredited, or accredited, to

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<sup>5</sup> Section 25 (Operation of provisionally accredited school before its student-intake day)

<sup>6</sup> If the governing body of a provisionally accredited, or accredited, school is not a corporation, that is a ground for the cancellation of the provisional accreditation under section 70 or the accreditation under section 63.

provide special education for the education of persons with a disability.

**12A Provisional accreditation, or accreditation, is for 1 type of education**

- (1) Each provisional accreditation, or accreditation, of a school must be for 1 type of education only.
- (2) However, a school may be provisionally accredited, or accredited, to provide more than 1 type of education.

**13 Mode of delivery of education**

A school may only be provisionally accredited, or accredited, to use the following modes of delivery of education—

- (a) classroom education;
- (b) distance education.

**14 Duplicate application prohibited**

- (1) This section applies if an application has been made for the accreditation of a school to provide a type of education at a location and the application has not been decided by the board.
- (2) The applicant may not make another application for the accreditation of the school to provide the same type of education at the location.

**15 Application of Commission for Children and Young People and Child Guardian Act 2000, pt 6**

For the *Commission for Children and Young People and Child Guardian Act 2000*, part 6,<sup>7</sup> a person is taken to be a person carrying on a regulated business under that Act by being a director of the governing body of a provisionally accredited, or accredited, school.

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<sup>7</sup> *Commission for Children and Young People and Child Guardian Act 2000*, part 6 (Screening for regulated employment and regulated businesses)

## **Division 2            Applications for accreditation**

### **Subdivision 1        Applications**

#### **16        Procedural requirements for application**

- (1) An application for the accreditation of a school must—
  - (a) be made to the board; and
  - (b) be in the approved form; and
  - (c) be accompanied by—
    - (i) the fee, if any, prescribed under a regulation; and
    - (ii) copies of current positive notices for all the directors of the school's governing body.
- (2) The approved form must require the inclusion of the school's student-intake day that is to apply if the board provisionally accredits the school.
- (3) Also, the approved form must require the inclusion of details of each of the following attributes the school must have if the board decides to grant the application—
  - (a) the school's governing body;
  - (b) the land on which the school is to operate;
  - (c) the curriculum model the school is to follow;
  - (d) the mode of delivery of education to be used at the school;
  - (e) the years of schooling the school is to offer;
  - (f) if the school operates from more than 1 site—the years of schooling the school is to offer at each site;
  - (g) whether the school is to include boarding facilities;
  - (h) whether the school is a coeducational or single-sex school;

- (i) if the school is an establishment phase school for a sector of schooling—the school’s sector student-intake day for the sector of schooling.
- (4) In addition, the approved form must require the inclusion of—
  - (a) an indication about whether or not the applicant seeks Government funding for the school; and
  - (b) if the applicant seeks Government funding for the school—the aspects of the school’s operation for which the Government funding is sought.

## **17 If applicant seeks Government funding for the school**

- (1) This section applies if—
  - (a) the applicant indicates in the application that the applicant seeks Government funding for the school; and
  - (b) the board is satisfied—
    - (i) the school will not on its establishment be operated for profit; and
    - (ii) the applicant is not a party to, and does not intend to enter into, a prohibited arrangement in relation to the operation of the school; and
    - (iii) there is no direct or indirect connection between the applicant and a for-profit entity, and there will not on the school’s establishment be a direct or indirect connection between the applicant and a for-profit entity, that could reasonably be expected to compromise the independence of the applicant when making financial decisions.
- (2) The board must as soon as practicable after receiving the application—
  - (a) give the committee—
    - (i) a copy of the application; and
    - (ii) copies of the documents that accompanied the application; and
  - (b) give the Minister a notice stating—

- (i) that the board has received the application; and
- (ii) the day the application was received.

### **17A Further information or documents**

- (1) Before deciding whether it is satisfied about a matter mentioned in section 17(1)(b), the board may by notice given to the applicant require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires for it to make the decision.
- (2) The notice may state that the information or document must be verified by a statutory declaration.
- (3) The applicant is taken to no longer be seeking Government funding for the school if, within the stated time, the applicant does not comply with the requirement.

### **17B Board not satisfied about particular matter**

If the board decides it is not satisfied about a matter mentioned in section 17(1)(b), it must as soon as practicable give the applicant an information notice about the decision.

## **Subdivision 2 Provisional accreditation of schools**

### **18 Decision to provisionally accredit school**

- (1) The board must consider the application and decide whether it is satisfied—
  - (a) the applicant is suitable to be the school's governing body;<sup>8</sup> and
  - (b) the school will comply with the accreditation criteria within the school's provisional accreditation period.

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<sup>8</sup> See section 39 (Suitability of governing body).



- (2) If the board is satisfied of the matters mentioned in subsection (1), it must decide to provisionally accredit the school subject to the school having the following attributes (the *attributes of provisional accreditation*)—
  - (a) the attributes, mentioned in section 16(3), stated in the application;
  - (b) any other attribute agreed to by the applicant and board.
- (3) If the board decides to provisionally accredit the school, it must as soon as practicable issue a certificate of provisional accreditation to the applicant.

## **19 Decision to refuse to provisionally accredit school**

- (1) If the board is not satisfied of the matters mentioned in section 18(1), it must decide to refuse to provisionally accredit the school.
- (2) If the board decides to refuse to provisionally accredit the school, it must as soon as practicable give the applicant an information notice about the decision.
- (3) The decision does not take effect until—
  - (a) the last day to apply for a review of the decision; or
  - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.
- (4) If the board decides to refuse to provisionally accredit the school, the application for the accreditation of the school ends on the day the decision takes effect under subsection (3).

## **20 If applicant seeks Government funding for the school**

- (1) This section applies if the applicant indicates in the application that the applicant seeks Government funding for the school.
- (2) The board may make a decision about the school's provisional accreditation before receiving notice of the Minister's decision on the application for Government funding for the school.

- (3) However, if the board has not received the notice, it may not refuse to provisionally accredit the school for a reason about the financial viability of the operation of the school under a provisional accreditation or accreditation.
- (4) Subsection (5) applies if the board has received notice of the Minister's decision not to grant the application for Government funding for the school.
- (5) The board must not decide whether to provisionally accredit the school until after—
  - (a) the last day to apply for a review of the decision; or
  - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.

## **21 Failure to decide to provisionally accredit school**

- (1) Subsection (2) applies if the applicant indicates in the application that the applicant seeks Government funding for the school.
- (2) If the board fails to decide whether to provisionally accredit the school within 9 months after the board receives the application—
  - (a) the failure is taken to be a decision of the board to refuse to provisionally accredit the school; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (3) Subsection (4) applies if the applicant indicates in the application that the applicant is not seeking Government funding for the school.
- (4) If the board fails to decide whether to provisionally accredit the school within 6 months after the board receives the application—
  - (a) the failure is taken to be a decision of the board to refuse to provisionally accredit the school; and

- (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (5) This section is subject to section 22.

## **22 Further time to make decision**

- (1) This section applies if the board considers it needs further time to make a decision on whether it is satisfied of the matters mentioned in section 18(1) because of the complexity of the matters that need to be considered in making the decision.
- (2) The applicant and board may at any time before the final consideration day agree in writing on a day (the *agreed extended day*) by which the decision is to be made.
- (3) If the board fails to make the decision by the agreed extended day—
  - (a) the failure is taken to be a decision of the board to refuse to provisionally accredit the school; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (4) In this section—

*final consideration day* means—

  - (a) if the applicant indicates in the application that the applicant seeks Government funding for the school—the day that is 9 months after the board’s receipt of the application; or
  - (b) if the applicant indicates in the application that the applicant is not seeking Government funding for the school—the day that is 6 months after the board’s receipt of the application.

## **23 Form of certificate of provisional accreditation**

- (1) A certificate of provisional accreditation of a school must be in the approved form.

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- (2) The certificate is for the school and is not personal to the school's governing body.
- (3) The school's governing body must display the certificate in a prominent place at the school.
- (4) If a school is provisionally accredited for more than 1 type of education, a single certificate of provisional accreditation may relate to all the types of education concerned.

**24 Provisional accreditation period**

- (1) A school's provisional accreditation remains in force for the period, not more than 3 years, stated in the certificate of provisional accreditation.
- (2) The last day of the period must be the day that is 1 year after the school's student-intake day.

**25 Operation of provisionally accredited school before its student-intake day**

The governing body of a provisionally accredited school must not operate the school before the school's student-intake day.

Maximum penalty—100 penalty units.

**Subdivision 3 Decision on applications**

**26 Further information or documents to support application for accreditation**

- (1) Before deciding an application for the accreditation of a school, the board may by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to decide the application.
- (2) Also, the board may by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a

document the board reasonably requires to decide whether to provisionally accredit the school under section 18.

- (3) The notice may state that the information or document must be verified by a statutory declaration.
- (4) The applicant is taken to have withdrawn the application if, within the time stated in the notice, the applicant does not comply with the notice.
- (5) When giving a notice under subsection (1), the board must have regard to the time remaining for the board to decide the application under section 27.
- (6) When giving a notice under subsection (2), the board must have regard to the time remaining for the board to decide whether to provisionally accredit the school under section 18.

## **27 Decision**

- (1) This section applies to a provisionally accredited school.
- (2) The board must consider the application for the accreditation of the school and decide, after assessing the school under subdivision 4, whether it is satisfied—
  - (a) the applicant is suitable to be the school’s governing body;<sup>9</sup> and
  - (b) the school is complying with the accreditation criteria.
- (3) If the board is satisfied of the matters mentioned in subsection (2), it must decide to accredit the school subject to the school having the following attributes (the *attributes of accreditation*)—
  - (a) the attributes, mentioned in section 16(3), stated in the application;
  - (b) any other attribute agreed to by the applicant and board.

## **28 Steps to be taken after application decided**

- (1) If the board decides to accredit the school—

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<sup>9</sup> See section 39 (Suitability of governing body).

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- (a) it must, as soon as practicable, issue a certificate of accreditation, for the school, to the applicant; and
  - (b) the applicant must return the school's certificate of provisional accreditation to the board within 14 days after receiving the certificate of accreditation.
- (2) The school's provisional accreditation is cancelled when the applicant receives the certificate of accreditation.
- (3) If the board decides to refuse to accredit the school, it must as soon as practicable give the applicant an information notice about the decision.
- (4) The decision to refuse to accredit the school does not take effect until the latest of the following days—
  - (a) the day of effect stated in the information notice;
  - (b) the last day to apply for a review of the decision;
  - (c) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.
- (5) The school's provisional accreditation is cancelled when the decision to refuse to accredit the school takes effect under subsection (4).

**29 Failure to decide application during school's provisional accreditation period**

- (1) If the board fails to decide the application within the school's provisional accreditation period—
  - (a) the failure is taken to be a decision of the board to refuse to accredit the school; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (2) The decision does not take effect until the later of—
  - (a) the last day to apply for a review of the decision; or
  - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.

- (3) The school's provisional accreditation is cancelled when the decision takes effect under subsection (2).
- (4) This section is subject to section 30.

### **30 Further consideration of application**

- (1) This section applies if the board considers it needs further time to make a decision on whether it is satisfied of the matters mentioned in section 27(2) because of the complexity of the matters that need to be considered in deciding the application.
- (2) The applicant and board may at any time within the school's provisional accreditation period agree in writing on a day (the *agreed extended day*) by which the application is to be decided.
- (3) If the board fails to make the decision by the agreed extended day—
  - (a) the failure is taken to be a decision of the board to refuse to accredit the school; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (4) The decision does not take effect until the later of—
  - (a) the last day to apply for a review of the decision; or
  - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.
- (5) The school's provisional accreditation is cancelled when the decision takes effect under subsection (4).

### **31 Return of certificate of provisional accreditation to board**

- (1) This section applies if—
  - (a) the board decides, under section 27, to refuse to accredit a school; or
  - (b) the board is, under section 29 or 30, taken to have decided to refuse to accredit a school.

- (2) The applicant must return the school's certificate of provisional accreditation to the board within 14 days after a decision to which this section applies takes effect, unless the applicant has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) However, subsection (2) does not apply if the applicant made an application for a review of the decision and was successful in having the decision overturned.

## **Subdivision 4      Assessment of schools**

### **32      Initial assessment of school**

- (1) The board must after the assessment day start an assessment of a provisionally accredited school, to decide whether the school is complying with the accreditation criteria.

- (2) In this section—

*assessment day* means—

- (a) a day agreed to by the applicant for the accreditation of the school and the board; or
- (b) the day, of which the board has notified the applicant, that is—
- (i) at least 60 days after the giving of the notice; and
- (ii) within 6 months before the end of the school's provisional accreditation period.

### **33      Report by assessor**

- (1) To assess a school under this subdivision, the board must obtain a written report from an assessor about whether the school is complying with the accreditation criteria.
- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.<sup>10</sup>

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<sup>10</sup> Chapter 5 (Administration), part 3 (Authorised persons)



### **34 Further assessment of school**

- (1) Subsections (2) and (3) apply if, after the assessment of a school under section 32, the board—
  - (a) is satisfied the applicant for the accreditation of the school is suitable to be the school's governing body;<sup>11</sup> and
  - (b) is not satisfied the school is complying with the accreditation criteria; and
  - (c) is satisfied the school will comply with the accreditation criteria within 1 year after the end of the school's provisional accreditation period.
- (2) The school's provisional accreditation period is extended by 1 year.
- (3) The board must as soon as practicable—
  - (a) give the applicant notice of the outcome of the assessment; and
  - (b) issue the applicant with another certificate of provisional accreditation stating the school's extended provisional accreditation period.
- (4) Before the end of the school's extended provisional accreditation period, the board must conduct another assessment of the school to decide whether the school is complying with the accreditation criteria.
- (5) The board may only conduct an assessment of the school, under subsection (4), if it has given the applicant notice of the assessment within a reasonable time of at least 30 days before the start of the assessment.
- (6) The board may conduct not more than 3 assessments of the school under subsection (4).

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<sup>11</sup> See section 39 (Suitability of governing body).

## **Subdivision 5      Certificates of accreditation**

### **35      Form of certificate of accreditation**

- (1) A certificate of accreditation of a school must be in the approved form.
- (2) The certificate is for the school and is not personal to the school's governing body.
- (3) The school's governing body must display the certificate in a prominent place at the school.
- (4) If a school is accredited for more than 1 type of education, a single certificate of accreditation may relate to all the types of education concerned.

## **Division 3              Additional assessment of certain schools**

### **Subdivision 1      Assessment when school first starts to operate within a sector of schooling**

#### **36      Application of sdiv 1**

This subdivision applies to a school—

- (a) that was an establishment phase school for a sector of schooling; and
- (b) that has started to operate, within the sector of schooling, on the school's sector student-intake day for the sector of schooling.

#### **37      Assessment of school**

- (1) The board must after the assessment day start an assessment of the school, to decide whether the school is complying with the accreditation criteria.

- (2) The board may conduct not more than 2 assessments of the school under this section.
- (3) In this section—
  - assessment day** means—
    - (a) a day agreed to by the board and the school’s governing body; or
    - (b) the day, of which the board has notified the governing body, that is—
      - (i) at least 6 months after the school’s sector student-intake day for the sector of schooling; and
      - (ii) within the last year of schooling for the sector of schooling.

### **38 Report by assessor**

- (1) To assess a school under section 37, the board must obtain a written report from an assessor about whether the school is complying with the accreditation criteria.
- (2) To prepare the report, the assessor may exercise the assessor’s powers under chapter 5, part 3.<sup>12</sup>

## **Subdivision 2 Assessment when school starts to operate within a sector of schooling at new site**

### **38A Application of sdiv 2**

This subdivision applies to a school that has started to operate, within a sector of schooling, at a site (a *new site*) at which the school has not previously operated within the sector of schooling.

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<sup>12</sup> Chapter 5 (Administration), part 3 (Authorised persons)

### **38B Assessment of school**

- (1) The board must after the assessment day start an assessment of the school in relation to the provision of education within the sector of schooling at the new site, to decide whether the school is complying with the accreditation criteria.
- (2) The board may conduct not more than 2 assessments of the school under this section.
- (3) In this section—  
*assessment day* means—
  - (a) a day agreed to by the board and the school's governing body; or
  - (b) the day, of which the board has notified the governing body, that is—
    - (i) at least 6 months after the day the school starts to operate within the sector of schooling at the new site; and
    - (ii) within the last year of schooling for the sector of schooling at the new site.

### **38C Report by assessor**

- (1) To assess a school under section 38B, the board must obtain a written report from an assessor about whether the school is complying with the accreditation criteria.
- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.

## **Division 4 Investigation of suitability of school's governing body**

### **39 Suitability of governing body**

- (1) This section applies if the board is deciding—

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- (a) whether a school's governing body that is the applicant for the accreditation of the school is suitable to be the school's governing body; or
  - (b) whether the governing body of a provisionally accredited, or accredited, school is suitable to continue to be the school's governing body; or
  - (c) whether the proposed governing body of a provisionally accredited, or accredited, school would be suitable to be the school's governing body.
- (2) The board may have regard to the following—
- (a) the governing body's relationship with other entities;
  - (b) whether the governing body has appropriate guiding principles and procedures for identifying, declaring and dealing with any conflict of interest a director of the governing body may have relating to an aspect of the operation of the school;
  - (c) the conduct of the governing body, or its directors, relevant to the operation of the school.
- (3) If a director of a school's governing body does not have a current positive notice, the board must decide that the governing body is not suitable to be, not suitable to continue to be, or would not be suitable to be, the school's governing body.
- (4) Also, in making its decision, the board may have regard to each of the following—
- (a) if any of the governing body's directors have been convicted of an indictable offence—the nature, and circumstances, of the commission of the offence;
  - (b) if the governing body has been convicted of an offence—the nature, and circumstances, of the commission of the offence.
- (5) Subsections (2) to (4) do not limit the matters to which the board may have regard in making a decision mentioned in subsection (1).

- (6) In this section—  
*conflict of interest* includes a potential conflict of interest.

#### **40 Investigation**

- (1) The board may investigate a school's governing body that is the applicant for the accreditation of the school to help in deciding whether the governing body is suitable to be the school's governing body.
- (2) The board may investigate the governing body of a provisionally accredited, or accredited, school to help in deciding whether the governing body is suitable to continue to be the school's governing body.
- (3) The board may investigate the proposed governing body of a provisionally accredited, or accredited, school to help in deciding whether the governing body would be suitable to be the school's governing body.

#### **41 Criminal history reports for investigation**

- (1) In investigating the governing body or proposed governing body of a school under section 40, the board may ask the commissioner of the police service for—
  - (a) a written report about the criminal history of the governing body or a director of the governing body; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) The commissioner of the police service must comply with the request.
- (3) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.

**41A Report by assessor**

- (1) Before making a decision mentioned in section 39(1)(b), the board may obtain a written report from an assessor about the matter.
- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.<sup>13</sup>

**Division 5                      Periodic demonstration of  
compliance with accreditation  
criteria****42 Demonstration of compliance**

- (1) The board may, once every 5 years during a school's accreditation, give the school's governing body a notice requesting the governing body to give the board information or a document that may help the board in deciding whether the school is complying with the accreditation criteria.
- (2) The governing body must comply with the request within 6 months after the giving of the notice.

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<sup>13</sup> Chapter 5 (Administration), part 3 (Authorised persons)

## **Part 3**                      **Changes in provisional accreditation period, attributes of provisional accreditation or attributes of accreditation**

### **Division 1**                **Changes in provisional accreditation period**

#### **43**      **Application**

- (1) The board may, on application by the governing body of a provisionally accredited school, extend or reduce the school's provisional accreditation period.
- (2) Subsection (1) applies even if the period has already been extended or reduced under this section.
- (3) The application must—
  - (a) be made to the board; and
  - (b) be in the approved form; and
  - (c) be accompanied by the fee, if any, prescribed under a regulation; and
  - (d) be made at least 90 days before the school's student-intake day (the *90 day period*).
- (4) However, the board may consider an application for the extension of a school's provisional accreditation period made within the 90 day period if the board is satisfied that unforeseen circumstances preventing the school from complying with the accreditation criteria arose within the 90 day period.

#### **44**      **Further information or documents to support application**

- (1) The board may, by notice given to the applicant, request the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a



document the board reasonably requires to decide the application.

- (2) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with the request.
- (3) When giving the notice, the board must have regard to the time remaining for the board to decide the application.

#### **45 Failure to decide application**

- (1) If the application is for an extension of the school's provisional accreditation period and the board fails to decide the application by the school's student-intake day—
  - (a) the failure is taken to be a decision of the board to refuse to grant the application; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (2) If the application is for a reduction of the school's provisional accreditation period and the board fails to decide the application by the school's revised student-intake day—
  - (a) the failure is taken to be a decision of the board to refuse to grant the application; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (3) In this section—
 

*revised student-intake day*, of a school for which application has been made to reduce the school's provisional accreditation period, means the school's new student-intake day if the board were to decide to grant the application.

#### **46 Decision about application**

- (1) The board must consider the application and decide—
  - (a) to extend or reduce the school's provisional accreditation period in the way sought in the application; or

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- (b) to extend or reduce the school's provisional accreditation period in a different way to that sought in the application; or
  - (c) not to extend or reduce the school's provisional accreditation period.
- (2) The board may decide to extend the school's provisional accreditation period only if the board is satisfied unforeseen circumstances prevent the school from complying with the accreditation criteria within the period.
  - (3) The board may decide to reduce the school's provisional accreditation period only if the board is satisfied the school will comply with the accreditation criteria within the reduced period.
  - (4) If the board makes a decision under subsection (1)(a), the board must as soon as practicable give the school's governing body notice of the decision.
  - (5) If the board makes a decision under subsection (1)(b) or (c), the board must as soon as practicable give the school's governing body an information notice about the decision.
  - (6) A decision under subsection (1)(b) or (c) does not take effect until—
    - (a) the last day to apply for a review of the decision; or
    - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.

**47 Change in school's provisional accreditation period**

- (1) If the board makes a decision, under section 46(1)(a), in relation to a school, the school's governing body must return the school's certificate of provisional accreditation to the board within 14 days after the governing body receives notice of the decision under section 46(4).
- (2) If the board makes a decision, under section 46(1)(b), in relation to a school, the school's governing body must return the school's certificate of provisional accreditation to the

board within 14 days after the decision takes effect under section 46(6).

- (3) On receiving the certificate, the board must issue another certificate of provisional accreditation to the governing body to replace the certificate returned to the board.

#### **48 Change in school's student-intake day**

- (1) This section applies if—
  - (a) the board makes a decision, under section 46(1)(a) or (b), in relation to a school; and
  - (b) the school is not yet in operation.
- (2) If the school's provisional accreditation period is extended, the school's student-intake day is changed to the day that is 1 year before the last day of the extended period.
- (3) If the school's provisional accreditation period is reduced, the school's student-intake day is changed to the day that is 1 year before the last day of the reduced period.

### **Division 2 Changes in attributes of provisional accreditation on application by school's governing body**

#### **49 Application to change attribute of provisional accreditation**

- (1) A provisionally accredited school's governing body may apply to the board to change an attribute of provisional accreditation applying to the school.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by the fee, if any, prescribed under a regulation.
- (3) If the application is about a change in the school's governing body, the application must also be accompanied by copies of

current positive notices for all the directors of the proposed governing body.

**50 If applicant is eligible for Government funding for aspect of operation of school**

- (1) This section applies if—
  - (a) the application is about a change in an attribute of provisional accreditation applying to the school, other than a change in the school's governing body; and
  - (b) the change relates to an aspect of the operation of the school for which the governing body is eligible for Government funding for the school (the *relevant operational aspect*).
- (2) If the change will result in the school being allowed to operate within a new sector of schooling, the approved form must provide for the inclusion of the sector student-intake day for the sector of schooling.
- (3) The board must as soon as practicable—
  - (a) give the committee—
    - (i) a copy of the application; and
    - (ii) copies of the documents that accompanied the application; and
  - (b) give the Minister a notice stating—
    - (i) that the board has received the application; and
    - (ii) the day the application was received.

**51 Further information or documents to support application**

- (1) Before deciding the application, the board may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to decide the application.
- (2) The board may require the information or document to be verified by a statutory declaration.

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- (3) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement mentioned in subsection (1).
- (4) When giving the notice, the board must have regard to the time remaining for the board to decide the application.

## **52 Decision of board**

- (1) The board must consider the application and either grant, or refuse to grant, the application.
- (2) If the application is about a change in the school's governing body, the board may decide to grant the application only if the board is satisfied—
  - (a) the proposed governing body would be suitable to be the school's governing body;<sup>14</sup> and
  - (b) if the school's governing body is eligible for Government funding for the school and the intention is for the proposed governing body to also be eligible for Government funding for the school—
    - (i) once the change is effected, the school will continue to be a school not operated for profit; and
    - (ii) the proposed governing body is not a party to, and does not intend to enter into, a prohibited arrangement in relation to the operation of the school; and
    - (iii) there is no direct or indirect connection between the proposed governing body and a for-profit entity that could reasonably be expected to compromise the independence of the proposed governing body when making financial decisions.
- (3) If the application is about a change in an attribute of provisional accreditation applying to the school, other than a change in the school's governing body, the board may decide to grant the application only if the board is satisfied, that after

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14 See section 39 (Suitability of governing body).

the change is effected, the school will comply with the accreditation criteria.

- (4) If the board decides to grant the application, the board must as soon as practicable give the applicant a written notice (a ***change notice***) stating—
  - (a) the decision; and
  - (b) the day (the ***change day***) before which the change must be effected.
- (5) If the board decides to refuse to grant the application, the board must as soon as practicable give the applicant an information notice about the decision.

## **52A Deemed eligibility for Government funding**

- (1) This section applies if—
  - (a) the school's governing body is eligible for Government funding for the school; and
  - (b) the application is about a change in the school's governing body; and
  - (c) the intention is for the proposed governing body to also be eligible for Government funding for the school; and
  - (d) the board decides to grant the application.
- (2) Once the change is effected, the new governing body of the school is taken to be eligible for Government funding for the school.

## **53 Failure to decide application**

- (1) If the application is about a change in the school's governing body and the board fails to decide the application within 6 months after its receipt—
  - (a) the failure is taken to be a decision of the board to refuse to grant the application; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.

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- (2) Subsections (3) and (4) apply if the application is about a change in an attribute of provisional accreditation applying to the school, other than a change in the school's governing body.
- (3) If the applicant is eligible for Government funding for the school and the board fails to decide the application within 9 months after its receipt—
  - (a) the failure is taken to be a decision of the board to refuse to grant the application; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.
- (4) If the applicant is not eligible for Government funding for the school and the board fails to decide the application within 6 months after its receipt—
  - (a) the failure is taken to be a decision of the board to refuse to grant the application; and
  - (b) the board must, as soon as practicable, give the applicant an information notice about the decision.

**54 Consideration by committee of effect on eligibility for Government funding for school**

- (1) This section applies if the committee receives copies of an application and accompanying documentation under section 50(3).
- (2) The committee must—
  - (a) consider the application; and
  - (b) make a recommendation about whether, if the change is effected, the applicant would still be eligible for Government funding for the school as far as the funding relates to the relevant operational aspect.
- (3) In considering the application, the committee must have regard to the eligibility for Government funding criteria, as if the change had been effected.

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- (4) Subsection (5) applies if the application is about a change in the mode of delivery of education, used at the school, to include distance education.
- (5) The reference to the school's catchment area in the eligibility for Government funding criteria is taken to be a reference to the catchment area that would apply if the change had been effected.
- (6) The committee must, as soon as practicable after making the recommendation, give the recommendation to the board.
- (7) The board must, as soon as practicable after receiving the recommendation, give the recommendation to the Minister.
- (8) In this section—  
*recommendation* includes reasons for the recommendation.

## **55 Decision of Minister**

- (1) This section applies if the Minister receives a recommendation under section 54(7).
- (2) The Minister must decide, if the change is effected, whether the applicant would still be eligible for Government funding for the school as far as the funding relates to the relevant operational aspect.
- (3) In making the decision, the Minister must have regard to the following—
  - (a) the recommendation;
  - (b) the eligibility for Government funding criteria, as if the change had been effected.
- (4) Subsection (5) applies if the application is about a change in the mode of delivery of education, used at the school, to include distance education.
- (5) The reference to the school's catchment area in the eligibility for Government funding criteria is taken to be a reference to the catchment area that would apply if the change had been effected.
- (6) To remove doubt, it is declared that the Minister is not bound by the recommendation.



- (7) If the Minister decides, if the change is effected, the applicant would still be eligible for Government funding for the school as far as it relates to the relevant operational aspect, the Minister must as soon as practicable give the applicant and board notice of the decision.
- (8) If the Minister decides, if the change is effected, the applicant would not still be eligible for Government funding for the school as far as it relates to the relevant operational aspect, the Minister must as soon as practicable—
  - (a) give the applicant an information notice about the decision; and
  - (b) give the board notice of the decision.
- (9) The board may make a decision about the application before receiving notice of the Minister's decision.
- (10) However, if the board has not received notice of the Minister's decision, it may not refuse to grant the application for a reason about the financial viability of the operation of the school.
- (11) In this section—

*recommendation* includes reasons for the recommendation.

## **56 Recording change of attribute of provisional accreditation**

- (1) This section applies if a provisionally accredited school's governing body receives a change notice about an attribute of provisional accreditation stated in the school's certificate of provisional accreditation.
- (2) The school's governing body must return the certificate of provisional accreditation to the board within 14 days after receiving the notice.
- (3) On receiving the certificate, the board must issue a replacement certificate of provisional accreditation to the governing body stating details of the change, including the change day stated in the notice.
- (4) Failure to issue a replacement certificate does not affect the validity of the change.

**57 Failure to effect change of attribute of provisional accreditation before change day**

- (1) This section applies if—
  - (a) a provisionally accredited school's governing body receives a change notice about an attribute of provisional accreditation applying to the school; and
  - (b) the change is not effected before the change day stated in the notice.
- (2) The notice is taken not to have been given by the board to the governing body.
- (3) The governing body must return the certificate of provisional accreditation to the board within 14 days after the change day, unless the governing body has a reasonable excuse.
- (4) On receiving the certificate, the board must issue to the governing body a replacement certificate of provisional accreditation, not stating the details of the change.

**58 Effect of change on application for accreditation**

- (1) This section applies if a provisionally accredited school's governing body receives a change notice about an attribute of provisional accreditation applying to the school.
- (2) The application for the accreditation of the school, yet to be decided by the board, is taken to be amended to accord with the notice.

**Division 2A Other changes in attributes of provisional accreditation**

**58A Notice about change in attribute of provisional accreditation**

- (1) This section applies if—
  - (a) the board reasonably believes an attribute of provisional accreditation applying to a school has changed; and

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- (b) the school's governing body has not given the board an application about the change under division 2.
- (2) The board may give the school's governing body a notice (a *show cause notice*) stating the following—
  - (a) details about the attribute of provisional accreditation the board reasonably believes has changed;
  - (b) an outline of the facts and circumstances forming the basis for the board's belief;
  - (c) the change the board proposes making to the attribute of provisional accreditation applying to the school;
  - (d) an invitation to the governing body to show within a stated period (the *show cause period*) why the proposed change should not be made.
- (3) The show cause period must be a period ending at least 30 days after the notice is given to the governing body.

**58B Representations about show cause notice**

- (1) The governing body may make written representations about the show cause notice to the board in the show cause period.
- (2) The board must consider all written representations (the *accepted representations*) made under subsection (1).

**58C Ending show cause process without further action**

If, after considering the accepted representations for the show cause notice, the board no longer believes the attribute of provisional accreditation has changed, the board—

- (a) must not take further action about the show cause notice; and
- (b) must, as soon as practicable, give notice to the school's governing body that no further action is to be taken about the show cause notice.

**58D Changing attribute of provisional accreditation**

- (1) This section applies if—

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- (a) after considering the accepted representations for the show cause notice, the board still believes the attribute has changed; or
  - (b) there are no accepted representations for the show cause notice.
- (2) The board may decide to change the attribute.
  - (3) The board must, as soon as practicable, give an information notice about the decision to the school's governing body.
  - (4) The decision does not take effect until—
    - (a) the last day to apply for a review of the decision; or
    - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.

**58E Return of certificate of provisional accreditation to board**

- (1) This section applies if—
  - (a) the board decides to change an attribute of provisional accreditation applying to a school and gives an information notice about the decision to the school's governing body; and
  - (b) the attribute of provisional accreditation is stated in the school's certificate of provisional accreditation; and
  - (c) the decision takes effect under section 58D(4).
- (2) The governing body must return the certificate of provisional accreditation to the board within 14 days after the decision takes effect, unless the governing body has a reasonable excuse.  
Maximum penalty—20 penalty units.
- (3) On receiving the certificate, the board must issue a replacement certificate of provisional accreditation to the governing body stating details of the change.
- (4) Failure to issue a replacement certificate does not effect the validity of the change.

- (5) However, subsection (2) does not apply if the governing body made an application to have the decision reviewed under chapter 4 and was successful in having the decision overturned.

### **58F Effect of change on application for accreditation**

- (1) This section applies if a provisionally accredited school's governing body receives an information notice under section 58D(3).
- (2) The application for the accreditation of the school, yet to be decided by the board, is taken to be amended to accord with the decision stated in the information notice.
- (3) However, subsection (2) does not apply if the governing body made an application to have the decision reviewed under chapter 4 and was successful in having the decision overturned.

## **Division 3 Changes in attributes of accreditation**

### **59 Application of divs 2 and 2A**

For changing an attribute of accreditation applying to an accredited school, divisions 2 and 2A, other than sections 58 and 58F, apply as if—

- (a) an accreditation were a provisional accreditation; and
- (b) an accredited school were a provisionally accredited school; and
- (c) an attribute of accreditation were an attribute of provisional accreditation; and
- (d) a certificate of accreditation were a certificate of provisional accreditation.

**60 Establishment phase school not starting to operate on sector student-intake day**

- (1) This section applies if a school that is an establishment phase school for a sector of schooling does not start to operate, within the sector of schooling, on the school's sector student-intake day for the sector of schooling.
- (2) The attribute of accreditation applying to the school about the years of schooling it is allowed to offer is taken to be changed to not include the years of schooling in the sector of schooling.
- (3) The attribute of accreditation applying to the school about the school's sector student-intake day for the sector of schooling is taken to no longer apply to the school.
- (4) The school stops being an establishment phase school for the sector of schooling.
- (5) Subsections (6) to (8) apply if the attribute of accreditation applying to the school mentioned in subsection (2) or (3) is stated in the school's certificate of accreditation.
- (6) The school's governing body must return the certificate of accreditation to the board within 14 days after the school's sector student-intake day for the sector of schooling.
- (7) On receiving the certificate, the board must issue a replacement certificate of accreditation to the governing body to replace the certificate returned to the board.
- (8) Failure to issue a replacement certificate does not affect the validity of the change.

## Part 4                      Cancellation and surrender of    accreditations or provisional    accreditations

### Division 1                Giving of compliance notices

#### 61        Compliance notice

- (1) This section applies if—
  - (a) the board reasonably believes—
    - (i) an accredited school—
      - (A) is not complying with an accreditation criterion; or
      - (B) has not complied with an accreditation criterion in circumstances that make it likely the noncompliance will continue or be repeated; and
    - (ii) a matter relating to the noncompliance is reasonably capable of being rectified; and
    - (iii) it is appropriate to give the school's governing body an opportunity to rectify the matter; and
  - (b) the board has not given a show cause notice, about the noncompliance, to the governing body under section 64.<sup>15</sup>
- (2) The board may give the governing body a notice (a **compliance notice**) requiring the governing body to rectify the matter.
- (3) The compliance notice must state—
  - (a) that the board believes the school—
    - (i) is not complying with an accreditation criterion; or

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15 Section 64 (Show cause notice)

- (ii) has not complied with an accreditation criterion in circumstances that make it likely the noncompliance will continue or be repeated; and
- (b) the accreditation criterion the board believes is not being, or has not been, complied with; and
- (c) briefly, how the board believes the accreditation criterion is not being, or has not been, complied with; and
- (d) the matter relating to the noncompliance that the board believes is reasonably capable of being rectified; and
- (e) the reasonable steps the governing body must take to rectify the matter; and
- (f) that the governing body must take the steps within a stated reasonable period.
- (4) The governing body must comply with the compliance notice, unless the governing body has a reasonable excuse.

## **62 Report by assessor**

- (1) Before deciding whether to give a school's governing body a compliance notice about the school's noncompliance with an accreditation criterion, the board may obtain a written report from an assessor about whether the school is complying with the criterion.
- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.<sup>16</sup>

## **Division 2 Cancellation of accreditations**

### **63 Grounds for cancellation**

- (1) Each of the following is a ground for cancelling a school's accreditation for a type of education—

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<sup>16</sup> Chapter 5 (Administration), part 3 (Authorised persons)



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- (a) the school was accredited because of a materially false or misleading representation or declaration;
  - (b) the school's governing body is not a corporation;
  - (c) the school's governing body is not, or is no longer, suitable to be the school's governing body;<sup>17</sup>
  - (d) the school is not complying, or has not complied, with an accreditation criterion;
  - (e) there has been a change, without the board's approval under section 52 as applied by section 59, in an attribute of accreditation applying to the school;
  - (f) the school's governing body has not given the board documents under section 42;<sup>18</sup>
  - (g) the school has not provided the type of education for at least 4 consecutive months;
  - (h) the board is not satisfied the documents given by the school's governing body to the board, under section 42, are adequate in helping the board to decide whether the school is complying with the accreditation criteria.
- (2) Also, it is a ground for cancelling a school's accreditation to provide preschool education if the school stops providing primary education for years 1 to 3.

## 64 Show cause notice

- (1) This section applies if—
- (a) the board reasonably believes a ground exists to cancel a school's accreditation; and
  - (b) the board—
    - (i) has not given, and does not propose to give, the school's governing body a compliance notice under section 61 to rectify a matter to which the ground relates; or

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<sup>17</sup> See section 39 (Suitability of governing body).

<sup>18</sup> Section 42 (Demonstration of compliance)

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- (ii) has given the governing body a compliance notice under section 61 to rectify a matter to which the ground relates and the governing body—
  - (A) has failed to comply with the compliance notice within the period stated in the notice; and
  - (B) does not have a reasonable excuse for the failure.
- (2) The board must give the governing body a notice (a *show cause notice*) stating the following—
  - (a) the action (the *proposed action*) the board proposes taking under this division;
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) an invitation to the governing body to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the governing body.

## 65 Representations about show cause notice

- (1) The governing body may make written representations about the show cause notice to the board in the show cause period.
- (2) The board must consider all written representations (the *accepted representations*) made under subsection (1).

## 66 Ending show cause process without further action

If, after considering the accepted representations for the show cause notice, the board no longer believes the ground exists to cancel the accreditation, the board—

- (a) must not take further action about the show cause notice; and

- (b) must, as soon as practicable, give notice to the school's governing body that no further action is to be taken about the show cause notice.

## **67 Cancellation**

- (1) This section applies if after considering the accepted representations for the show cause notice, the board—
  - (a) still believes the ground exists to cancel the accreditation; and
  - (b) believes cancellation of the accreditation is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The board may decide to cancel the accreditation.
- (4) The board must, as soon as practicable, give an information notice about the decision to the school's governing body.
- (5) The decision does not take effect until—
  - (a) the last day to apply for a review of the decision; or
  - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.

## **68 Return of cancelled certificate of accreditation to board**

- (1) This section applies if—
  - (a) the board decides to cancel a school's accreditation and gives an information notice about the decision to the school's governing body; and
  - (b) the decision takes effect under section 67(5).
- (2) The governing body must return the certificate of accreditation to the board within 14 days after the decision takes effect, unless the governing body has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) However, subsection (2) does not apply if the governing body made an application to have the decision reviewed under chapter 4 and was successful in having the decision overturned.

### **Division 3                      Cancellation of provisional accreditations**

#### **69            Application of div 2**

For cancelling a school's provisional accreditation, division 2, other than sections 63 and 64(1)(b), applies as if—

- (a) an accreditation were a provisional accreditation; and
- (b) a certificate of accreditation were a certificate of provisional accreditation.

#### **70            Grounds for cancellation**

- (1) Each of the following is a ground for cancelling a school's provisional accreditation for a type of education—
- (a) the school was provisionally accredited because of a materially false or misleading representation or declaration;
  - (b) the school's governing body is not a corporation;
  - (c) the school's governing body is not, or no longer, suitable to be the school's governing body;<sup>19</sup>
  - (d) there has been a change, without the board's approval under section 52, in an attribute of provisional accreditation applying to the school;
  - (e) the school has not provided the type of education for any 4 consecutive months after the schools student-intake day.

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<sup>19</sup> See section 39 (Suitability of governing body).

- (2) Also, it is a ground for cancelling a school's provisional accreditation to provide preschool education if the school stops providing primary education for years 1 to 3.

## **Division 4                      Surrender of accreditations or provisional accreditations**

### **70A      Surrender**

- (1) A school's governing body may, by notice given to the board, surrender an accreditation or provisional accreditation of the school.
- (2) The surrender takes effect on the later of the following—
- (a) the end of 7 days after the day the notice is given;
  - (b) a day stated in the notice for the surrender.

## **Division 5                      Grammar schools**

### **70B      Notice to Minister about action taken in relation to a grammar school**

- (1) This section applies if the board gives any of the following notices to the governing body of a grammar school—
- (a) a compliance notice;
  - (b) a show cause notice under any provision of this Act;
  - (c) a notice under section 66(b);
  - (d) an information notice about a decision to cancel the school's accreditation.
- (2) The board must also give a copy of the notice to the Minister.
- (3) In this section—

*grammar school* means a grammar school under the *Grammar Schools Act 1975*.

## **Chapter 3      Government funding**

### **Part 1            Ministerial responsibility, and restrictions on applications, for government funding**

#### **71      Minister responsible for deciding eligibility for Government funding**

The Minister is responsible for deciding whether a school's governing body is eligible for Government funding for the school.<sup>20</sup>

#### **72      Restrictions on application for Government funding for school**

- (1) Subsection (2) applies if the Minister decides, under section 88, to refuse to grant an application for Government funding for a school relating to an aspect of the operation of the school.
- (2) The school's governing body may not apply for Government funding for the school for the aspect of the operation of the school until after the period, starting after the day of the Minister's decision, prescribed under a regulation.
- (3) Also, a school's governing body may not apply for Government funding for the school if the governing body is an ineligible company.

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<sup>20</sup> For the payment of allowances in relation to students attending an operating Government-funded school, see the *Education (General Provisions) Act 1989*, section 134A(2)(b) (Provision of scholarships and allowances).

## **Part 2                      Applications for government funding**

### **Division 1                Application for accredited school**

#### **73      Application for Government funding for accredited school**

- (1) The governing body of an accredited school may apply for Government funding for the school.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be made to the board; and
  - (c) be accompanied by the fee, if any, prescribed under a regulation.
- (3) Subsection (4) applies if the board is satisfied—
  - (a) the school is not being operated for profit; and
  - (b) the applicant is not a party to, and does not intend to enter into, a prohibited arrangement in relation to the operation of the school; and
  - (c) there is no direct or indirect connection between the applicant and a for-profit entity that could reasonably be expected to compromise the independence of the applicant when making financial decisions.
- (4) The board must as soon as practicable—
  - (a) give the committee—
    - (i) a copy of the application; and
    - (ii) copies of the documents that accompanied the application; and
  - (b) give the Minister a notice stating—
    - (i) that the board has received the application; and
    - (ii) the day the application was received.

### **73A Further information or documents**

- (1) Before deciding whether it is satisfied about a matter mentioned in section 73(3), the board may by notice given to the applicant require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires for it to make the decision.
- (2) The notice may state that the information or document must be verified by a statutory declaration.
- (3) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with the requirement.

### **73B Report by assessor**

- (1) Before deciding whether it is satisfied about a matter mentioned in section 73(3), the board may obtain a written report from an assessor about the matter.
- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.<sup>21</sup>

### **73C Board not satisfied about particular matter**

- (1) If the board decides it is not satisfied about a matter mentioned in section 73(3), it must as soon as practicable give the applicant an information notice about the decision.
- (2) The application lapses if—
  - (a) the applicant does not apply for a review of the decision under chapter 4; or
  - (b) the applicant applies for a review of the decision under chapter 4 and the Minister makes a further decision mentioned in section 103(6)(b).

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<sup>21</sup> Chapter 5 (Administration), part 3 (Authorised persons)



## **Division 2                    Application for school not yet in operation**

### **74            Application for Government funding for school not yet in operation**

- (1) This section applies if the committee receives, under section 17,<sup>22</sup> from the board—
  - (a) a copy of an application for the accreditation of a school; and
  - (b) copies of the documents that accompanied the application.
- (2) The applicant is taken to be an applicant for Government funding for the school.
- (3) The committee is taken to have received an application for Government funding for the school.
- (4) The applicant is taken to have made an application for Government funding for the school on the day the board received the application for the accreditation of the school.

## **Part 3                            Public notification of applications**

### **Division 1                    Preliminary**

#### **75            Application of pt 3**

- (1) This part applies if a school's governing body has made an application for Government funding for the school.
- (2) Also, this part applies if—

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<sup>22</sup> Section 17 (If applicant seeks Government funding for the school)

- (a) a provisionally accredited school's governing body has made an application, under section 49, about a change in an attribute of provisional accreditation applying to the school, other than a change in the school's governing body; and
  - (b) the change relates to an aspect of the operation of the school for which the governing body is eligible for Government funding for the school.
- (3) In addition, this part applies if—
- (a) an accredited school's governing body has made an application, under section 49 as applied by section 59, about a change in an attribute of accreditation applying to the school, other than a change in the school's governing body; and
  - (b) the change relates to an aspect of the operation of the school for which the governing body is eligible for Government funding for the school.

## **Division 2                      Public notification requirements**

### **76            Public notification**

- (1) Subsection (2) applies if the only mode of delivery of education used at the school is distance education.
- (2) Within 7 days after making an application to which this part applies, the applicant must—
  - (a) give notice about the application (the *catchment area notice*) to—
    - (i) the governing body of any other school operating in the State offering distance education in the State; and
    - (ii) the principal of any State school offering distance education in the State; and
  - (b) publish the catchment area notice at least once in a newspaper circulating throughout the State.

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- (3) Subsection (4) applies if the mode of delivery of education used at the school does not only consist of distance education.
- (4) Within 7 days after making the application, the applicant must—
  - (a) give notice about the application (also the ***catchment area notice***) to—
    - (i) the governing body of any other school operating in the school's catchment area; and
    - (ii) the principal of any State school operating in the school's catchment area; and
  - (b) publish the catchment area notice at least once in a newspaper circulating throughout the school's catchment area.
- (5) Subsection (6) applies if the application is about a change in the mode of delivery of education, used at the school, to include distance education.
- (6) For subsection (4), the school's catchment area is taken to be the catchment area that would apply if the change had been effected.
- (7) The applicant must also give the catchment area notice to the following persons—
  - (a) the chief executive;
  - (b) the Executive Director, QCEC;
  - (c) the Executive Director, AISQ.
- (8) However, the applicant need not comply with a notice requirement under this section for an application (the ***exempt application***) if the committee has advised the applicant that it is satisfied the exempt application is substantially similar to—
  - (a) another application for which a person has complied with the notice requirement within 3 years before the exempt application was made; or
  - (b) an application—
    - (i) made under the *Education (General Provisions) Act 1989*, section 134B, as in force from time to

time before 1 January 2002, within 3 years before the exempt application was made; and

- (ii) for which a person has complied with the requirements under that Act about giving notice of the application.

(9) This section is subject to section 84.<sup>23</sup>

## 77 Required content of catchment area notice

- (1) The catchment area notice must state the following—
  - (a) the name and address of the applicant;
  - (b) a brief description of the application;
  - (c) the school's location;
  - (d) a description of the school's catchment area;
  - (e) where the application may be inspected;<sup>24</sup>
  - (f) where copies of the application, or part of the application, may be obtained;<sup>25</sup>
  - (g) that anyone may make a submission to the committee about the application;
  - (h) the period (the *submission period*) during which submissions may be made;
  - (i) how to make a properly made submission;
  - (j) any other matter prescribed under a regulation.
- (2) The submission period must be at least 35 days after making the application.
- (3) In subsection (1)(e)—
 

*application* includes copies of any documents that accompanied the application.

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23 Section 84 (Substantial compliance with notice requirements may be accepted)

24 See section 82 (Inspection of application).

25 See section 83 (Obtaining a copy of application).

## **78 Notice of compliance or noncompliance with notice requirements**

- (1) The applicant must, within 21 days after making an application to which this part applies, give the committee a notice stating—
  - (a) whether or not the applicant has, for the application, complied with the notice requirements under section 76; and
  - (b) the name and address of each person, if any, to whom the catchment area notice was given under section 76(2)(a) or (4)(a).
- (2) If the catchment area notice was published in a newspaper under section 76(2)(b) or (4)(b), a copy of the page of the newspaper containing the catchment area notice must be attached to the notice.
- (3) Subject to section 84, the committee may only make a recommendation, under section 54,<sup>26</sup> section 54 as applied by section 59, or section 85, about the application if it is satisfied the applicant has complied with the notice requirements under section 76 to the extent they apply to the applicant.

## **Division 3 Submissions**

### **79 Right to make submission**

- (1) A person may, within the submission period, make a submission to the committee about the application.
- (2) The submission may only address the eligibility for Government funding criteria.

### **80 Acceptance of submissions**

- (1) The committee must accept a submission, made under section 79, if it—

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<sup>26</sup> Section 54 (Consideration by committee of effect on eligibility for Government funding for school)

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- (a) is written; and
  - (b) is signed by or for each person (*signatory*) who made the submission; and
  - (c) states the name and address of each signatory; and
  - (d) is made to the committee; and
  - (e) is received on or before the last day of the submission period.
- (2) A submission complying with subsection (1) is called a *properly made submission*.
  - (3) The committee may accept a written submission even if it is not a properly made submission.

## **81 Response to submissions**

- (1) The committee must, within 10 business days after the submission period ends, give the applicant copies of all submissions accepted by the committee under section 80.
- (2) The applicant must, within the relevant period, consider the submissions and give the committee a statement of the applicant's response to the submissions.
- (3) In this section—  
*relevant period* means the later of the following periods to end—
  - (a) 20 business days after the applicant is given copies of all submissions accepted by the committee under section 80;
  - (b) if the committee and applicant have, within the 20 business days, agreed to a longer period—the longer period.

## **Division 4                    Public access to applications**

### **82            Inspection of application**

- (1) The committee must, without charge, allow a person to inspect the application.
- (2) The application is to be made available for inspection, during ordinary office hours, at the board office.
- (3) The applicant must, without charge, allow a person to inspect the application during ordinary office hours at—
  - (a) if the applicant is a company under the Corporations Act—the applicant’s registered office under that Act; or
  - (b) otherwise—the applicant’s principal place of business in the State.
- (4) In this section—

*application* includes copies of any documents that accompanied the application.

### **83            Obtaining a copy of application**

- (1) If a person asks the applicant for a copy of the application, or part of the application, the applicant must without charge give the person the copy.
- (2) In this section—

*application* does not include copies of any documents that accompanied the application.

## **Division 5                    Noncompliance with notice requirements**

### **84            Substantial compliance with notice requirements may be accepted**

- (1) This section applies if, after receiving a notice from the applicant under section 78, the committee is not satisfied the

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applicant has complied with the notice requirements under section 76 to the extent they apply to the applicant.

- (2) If the committee is satisfied there has been substantial compliance with the requirements, it must decide to make a recommendation, under section 54,<sup>27</sup> section 54 as applied by section 59, or section 85, about the application.
- (3) If the committee does not make the decision mentioned in subsection (2), it must as soon as practicable notify the applicant of the following—
  - (a) the committee is not satisfied the applicant has complied with the notice requirements;
  - (b) the notice requirements that have not been complied with (the *outstanding notice requirements*);
  - (c) what the applicant must do to comply with the outstanding notice requirements and a reasonable period within which the outstanding notice requirements must be complied with.
- (4) If the applicant receives a notice under subsection (3), the committee must not make the recommendation unless it is satisfied there has been substantial compliance with the outstanding notice requirements within the stated period.
- (5) If the committee is not satisfied there has been substantial compliance with the outstanding notice requirements within the stated period, it—
  - (a) must not make the recommendation; and
  - (b) must notify the Minister, board and applicant that the recommendation will not be made and the reason for not making the recommendation.
- (6) If the application is of the type mentioned in section 73,<sup>28</sup> the application is taken to have been withdrawn immediately after the notification under subsection (5)(b).

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27 Section 54 (Consideration by committee of effect on eligibility for Government funding for school)

28 Section 73 (Application for Government funding for accredited school)



- (7) If the application is other than of the type mentioned in section 73, the aspect of the application about Government funding for the school is taken to have been withdrawn immediately after the notification under subsection (5)(b).
- (8) In this section—  
*notice requirements under section 76* does not include the requirement about the time, mentioned in section 76, within which the other requirements must be complied with.

## **Part 4**

# **Recommendations by committee about applications for government funding**

### **85 Recommendation by committee about application**

- (1) The committee must—
- (a) consider an application for Government funding for a school received by the committee; and
  - (b) after considering the application, make a recommendation about whether the applicant is eligible for Government funding for the school; and
  - (c) as soon as practicable after making the recommendation, give the recommendation to the board.
- (2) As soon as practicable after receiving the recommendation, the board must give the recommendation to the Minister.
- (3) In considering an application for Government funding for a school that is not yet in operation, the committee must have regard to the following criteria (the *eligibility for Government funding criteria*)—
- (a) the likely impact the operation of the school will have on any other schools or State schools operating in the subject school's catchment area within 5 years after the school's student-intake day;

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- (b) the extent of religious, philosophical, or educational delivery, choice in education that prospective students residing in the school's catchment area are likely to have with the establishment of the school;
  - (c) whether the anticipated enrolment of students, other than overseas students, at the school is more than the minimum enrolment, prescribed under a regulation, for a school offering the same type of education as that proposed to be offered at the school;
  - (d) the projected population of school-age children likely to reside in the school's catchment area within 5 years after the school's student-intake day;
  - (e) the extent of any unfilled enrolment capacity of any other schools or State schools operating in the school's catchment area.
- (4) In considering an application for Government funding for a school that is in operation, the committee must have regard to the following criteria (also the *eligibility for Government funding criteria*)—
- (a) the likely impact the operation of the school will have on any other schools or State schools operating in the subject school's catchment area within 5 years after the year in which the application is being considered;
  - (b) the extent of religious, philosophical, or educational delivery, choice in education that students residing in the school's catchment area have with the existence of the school;
  - (c) whether the enrolment of students, other than overseas students, at the school is more than the minimum enrolment, prescribed under a regulation, for a school offering the same type of education as that offered at the school;
  - (d) the projected population of school-age children likely to reside in the school's catchment area within 5 years after the year in which the application is being considered;

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(e) the extent of any unfilled enrolment capacity of any other schools or State schools operating in the school's catchment area.

(5) In this section—

***enrolment capacity***, of a school or State school, means the capacity of the school's, or State school's, general learning areas to accommodate more students.

***overseas student*** means a person who—

- (a) is not an Australian resident; or
- (b) holds a student visa issued under the *Migration Act 1958* (Cwlth).

***recommendation*** includes reasons for the recommendation.

## **86 Likely impact of establishment of school on other schools or State schools**

(1) In considering the criterion mentioned in section 85(3)(a), the committee must have regard to the following—

- (a) whether there is likely to be a reduction in enrolments at any of the other schools or State schools within the 5 year period because of the establishment of the subject school;
- (b) whether there is likely to be a reduction in curriculum offerings at any of the other schools or State schools within the 5 year period because of the establishment of the subject school;
- (c) whether there is likely to be a closure of any of the other schools or State schools within the 5 year period because of the establishment of the subject school.

(2) In considering the criterion mentioned in section 85(4)(a), the committee must have regard to the following—

- (a) whether there is likely to be a reduction in enrolments at any of the other schools or State schools within the 5 year period because the subject school is a Government-funded school;

- (b) whether there is likely to be a reduction in curriculum offerings at any of the other schools or State schools within the 5 year period because the subject school is a Government-funded school;
- (c) whether there is likely to be a closure of any of the other schools or State schools within the 5 year period because the subject school is a Government-funded school.

### **87 Further information or documents to support application**

- (1) The committee may, by notice given to an applicant for Government funding for a school, require the applicant to give the committee within a reasonable time of at least 30 days stated in the notice, further information or a document the committee reasonably requires to make its recommendation on the application.
- (2) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with the requirement.
- (3) When giving the notice, the committee must have regard to the time remaining for the Minister to decide the application.

## **Part 5 Decision of Minister**

### **88 Decision on application**

- (1) This section applies if the Minister receives a recommendation, under section 85(2), about an application for Government funding for a school.
- (2) The Minister must decide whether the applicant is eligible for Government funding for the school.
- (3) In making the decision, the Minister must have regard to the following—
  - (a) the recommendation;

- (b) the eligibility for Government funding criteria.
- (4) In considering the criterion mentioned in section 85(3)(a) or (4)(a), the Minister must have regard to the same matters the committee must have regard to under section 86.
- (5) To remove doubt, it is declared that the Minister is not bound by the recommendation.
- (6) If the Minister decides to grant the application, the Minister must as soon as practicable give the applicant and board notice of the decision.
- (7) If the Minister decides to refuse to grant the application, the Minister must as soon as practicable—
  - (a) give the applicant an information notice about the decision; and
  - (b) if the application is part of an application for the accreditation of the school—give the board notice of the decision.
- (8) In this section—

*recommendation* includes reasons for the recommendation.

## **89 Further information or documents to support application**

- (1) The Minister may, by notice given to the applicant, require the applicant to give the Minister within a reasonable time of at least 30 days stated in the notice, further information or a document the Minister reasonably requires to decide the application.
- (2) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with the requirement.
- (3) When giving the notice, the Minister must have regard to the time remaining for the Minister to decide the application.

## **90 Failure to decide application**

- (1) If the Minister fails to decide the application within 9 months after the application was made—

- (a) the failure is taken to be a decision of the Minister to refuse to grant the application; and
  - (b) the Minister must, as soon as practicable—
    - (i) give the applicant an information notice about the decision; and
    - (ii) if the application is part of an application for the accreditation of the school—give the board notice of the decision.
- (2) This section is subject to section 91.

## **91 Further consideration of application**

- (1) This section applies if the Minister considers further time is needed to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application.
- (2) The applicant and Minister may at any time before the final consideration day agree in writing on a day (the *agreed extended day*) by which the decision is to be made.
- (3) The Minister must, as soon as practicable, notify the board of the agreed extended day.
- (4) If the Minister fails to make the decision by the agreed extended day—
  - (a) the failure is taken to be a decision of the Minister to refuse to grant the application; and
  - (b) the Minister must, as soon as practicable—
    - (i) give the applicant an information notice about the decision; and
    - (ii) if the application is part of an application for the accreditation of the school—give the board notice of the decision.
- (5) If the application is part of an application for the accreditation of the school and the Minister gives a notice under subsection (3), the period in which the board must decide whether to provisionally accredit the school is also extended to the agreed extended day.

(6) In this section—

*final consideration day* means the day that is 9 months after the application was received by the board.

## **Part 5A                      Restriction on type of corporation**

### **91A    Restriction on type of corporation that may be eligible for Government funding for a school**

The governing body of a Government-funded school must not be an ineligible company.

## **Part 6                              Withdrawal of eligibility for government funding**

### **Division 1                      Preliminary**

#### **92        Application of pt 6**

This part applies to a school, the governing body of which is eligible for Government funding for the school.

### **Division 2                      Withdrawal after show cause process**

#### **93        Grounds for withdrawal**

(1) Each of the following is a ground for the withdrawal of the eligibility for Government funding—

(a) the school is being operated for profit;

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- (b) the school's governing body did not allow an auditor to enter the school's premises under section 154, after the auditor complied with section 155;<sup>29</sup>
  - (c) the school's governing body did not comply with section 166;<sup>30</sup>
  - (d) the school's governing body is a party to a prohibited arrangement in relation to the operation of the school;
  - (e) there is a direct or indirect connection between the school's governing body and a for-profit entity that could reasonably be expected to compromise the independence of the governing body when making financial decisions;
  - (f) the school's governing body is an ineligible company.
- (2) For subsection (1)(d) or (e), it is immaterial when the prohibited arrangement or connection came into existence.

#### **94 Show cause notice**

- (1) This section applies if the board believes a ground exists for the withdrawal of the eligibility for Government funding.
- (2) The board must give the governing body a notice (a *show cause notice*) stating the following—
  - (a) the recommendation (the *proposed recommendation*) the board proposes to make under this division;
  - (b) the grounds for the proposed recommendation;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) an invitation to the governing body to show within a stated period (the *show cause period*) why the proposed recommendation should not be made.

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29 Section 155 (Notice of entry)

30 Section 166 (School survey data)



- (3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the governing body.

## **95 Representations about show cause notice**

- (1) The governing body may make written representations about the show cause notice to the board in the show cause period.
- (2) The board must consider all written representations (the *accepted representations*) made under subsection (1).

## **96 Ending show cause process without further action**

If, after considering the accepted representations for the show cause notice, the board no longer believes the ground exists for the withdrawal of the eligibility for Government funding, the board—

- (a) must not take further action about the show cause notice; and
- (b) must, as soon as practicable, give notice to the governing body that no further action is to be taken about the show cause notice.

## **97 Recommendation by board**

- (1) This section applies if after considering the accepted representations for the show cause notice, the board still believes the ground exists for the withdrawal of the eligibility for Government funding.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The board must make a recommendation that the eligibility for Government funding be withdrawn.
- (4) The board must, as soon as practicable after making the recommendation, give the recommendation to the Minister.
- (5) In this section—  
*recommendation* includes reasons for the recommendation.

## **98 Decision of Minister**

- (1) This section applies if the Minister receives a recommendation under section 97(4).
- (2) The Minister must decide whether the eligibility for Government funding should be withdrawn.
- (3) In making the decision, the Minister must have regard to the recommendation.
- (4) To remove doubt, it is declared that the Minister is not bound by the recommendation.
- (5) If the Minister decides to withdraw the eligibility for Government funding, the Minister must as soon as practicable—
  - (a) give the governing body an information notice about the decision; and
  - (b) give the board notice of the decision.
- (6) The decision does not take effect until—
  - (a) the last day to apply for a review of the decision; or
  - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.
- (7) If the Minister decides not to withdraw the eligibility for Government funding, the Minister must as soon as practicable give the board and governing body notice of the decision.
- (8) In this section—

*recommendation* includes reasons for the recommendation.

## **98A Report by assessor**

- (1) Before issuing a show cause notice on a ground mentioned in section 93(a), (d) or (e),<sup>31</sup> the board may obtain a written report from an assessor about the matter.

- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.<sup>32</sup>

### **Division 3                      Automatic withdrawal**

#### **99            Effect of cancellation of provisional accreditation or accreditation**

- (1) This section applies if the school is provisionally accredited or accredited.
- (2) If the provisional accreditation or accreditation is cancelled, the eligibility for Government funding is taken to be withdrawn when the cancellation takes effect under this Act.

#### **99A        Effect of change of particular attributes**

- (1) This section applies to a school if—
- (a) an attribute of the school's provisional accreditation or accreditation is changed under section 58D<sup>33</sup> or section 58D as applied by section 59; and
- (b) because of the change, the school is no longer provisionally accredited or accredited for an aspect of the operation of the school for which the school's governing body is eligible for Government funding.
- (2) The eligibility for Government funding for the aspect is taken to be withdrawn when the change takes effect under this Act.

#### **100        Effect of decision to refuse to provisionally accredit, or accredit, school**

- (1) This section applies if an application has been made to accredit the school.

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<sup>32</sup> Chapter 5 (Administration), part 3 (Authorised persons)

<sup>33</sup> Section 58D (Changing attribute of provisional accreditation)

- (2) If the board decides to refuse to provisionally accredit, or accredit, the school, the eligibility for Government funding is withdrawn when the decision takes effect under this Act.

## Chapter 4      Reviews of decisions

### 101      Who may apply for review

A person who is given, or is entitled to be given, an information notice for a decision (the *original decision*) and who is dissatisfied with the decision may apply to the Minister for a review of the decision.

### 102      Applying for review

- (1) The application must be made within 28 days after—
  - (a) if the person is given an information notice about the decision—the day the person is given the information notice; or
  - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (2) The Minister may, at any time, extend the time for applying for the review.
- (3) The application for review must be in writing and state fully the grounds of the application.

### 103      Review decision about board's decision

- (1) This section applies if the original decision was made by the board.
- (2) The applicant must serve a copy of the application on the board.
- (3) The Minister must conduct the review on—

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- (a) the material before the board that led to the original decision; and
  - (b) the reasons for the original decision; and
  - (c) any other relevant material the Minister allows (the ***allowed material***).
- (4) For the review, the Minister must give the applicant and board a reasonable opportunity to make written representations to the Minister.
- (5) Without limiting subsection (4), if the allowed material affects the Minister's decision, the Minister must give the applicant and board a reasonable opportunity to make written representations to the Minister on the material.
- (6) After reviewing the original decision, the Minister must make a further decision (the ***review decision***) to—
- (a) refer the matter to which the decision relates back to the board for further consideration, subject to any directions decided by the Minister; or
  - (b) decline to refer the matter to which the decision relates back to the board for further consideration.
- (7) The board must comply with the Minister's directions under subsection (6)(a).
- (8) The Minister must, as soon as practicable, give the applicant notice of the review decision and any directions under subsection (6)(a).
- (9) In the board's annual report for a financial year, under the *Financial Administration and Audit Act 1977*, the board must also include details of all directions received by it, under subsection (6)(a), during the financial year.

**104 Review decision about Minister's decision**

- (1) This section applies if the original decision was made by the Minister.
- (2) The Minister must conduct the review on—
- (a) the material that led to the original decision; and

- (b) the reasons for the original decision; and
  - (c) any other relevant material the Minister allows (the *allowed material*).
- (3) For the review, the Minister must give the applicant a reasonable opportunity to make written representations to the Minister.
  - (4) Without limiting subsection (3), if the allowed material affects the Minister's decision, the Minister must give the applicant a reasonable opportunity to make written representations to the Minister on the material.
  - (5) After reviewing the original decision, the Minister must make a further decision (the *review decision*) to—
    - (a) confirm the original decision; or
    - (b) amend the original decision; or
    - (c) substitute another decision for the original decision.
  - (6) The Minister must, as soon as practicable, give the applicant notice (the *review notice*) of the review decision.
  - (7) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.

## **Chapter 5 Administration**

### **Part 1 Non-State Schools Accreditation Board**

#### **Division 1 Establishment and functions**

##### **105 Establishment of board**

The Non-State Schools Accreditation Board is established.

## **106 Functions of board**

The board has the following functions—

- (a) to assess applications for accreditation of schools;
- (b) to accredit schools complying with the accreditation criteria;
- (c) to keep a register of provisionally accredited, and accredited, schools;
- (d) to monitor whether accredited schools continue to comply with the accreditation criteria;
- (e) to monitor whether the governing body of a provisionally accredited, or accredited, school is suitable to continue to be the school's governing body;<sup>34</sup>
- (f) to monitor whether a Government-funded school is a school not being operated for profit;
- (g) to monitor whether the governing body of a Government-funded school is not a party to a prohibited arrangement in relation to the operation of the school;
- (h) to monitor whether there is no direct or indirect connection between the governing body of a Government-funded school and a for-profit entity that could reasonably be expected to compromise the independence of the governing body when making financial decisions;
- (i) to examine, and advise the Minister about, the operation of the accreditation scheme under this Act, including, for example, the examining of and reporting on a matter referred to the board under section 107;
- (j) to perform other functions given to the board under this Act or another Act.

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<sup>34</sup> See section 39 (Suitability of governing body).

### **107 Minister may refer accreditation matter to board**

- (1) If the Minister considers there is a matter about the accreditation of schools the board should examine, the Minister may, by notice, refer the matter to the board for its examination.
- (2) The board must, after completing the examination, give the Minister a written report about the matter.
- (3) The report may include a recommendation about changing the accreditation scheme under this Act.

### **108 Minister's power to give directions in the public interest**

- (1) The Minister may give the board a written direction about a matter relevant to the performance of its functions under this Act 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 board 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.
- (3) The board must comply with the direction.
- (4) The direction can not be about—
  - (a) the provisional accreditation, or accreditation, of a particular school; or
  - (b) the changing of a particular school's provisional accreditation period; or
  - (c) the changing of the attributes of provisional accreditation of a particular school; or
  - (d) the changing of the attributes of accreditation of a particular school; or
  - (e) the cancelling of a provisional accreditation, or accreditation, of a particular school.



- (5) In the board's annual report for a financial year, under the *Financial Administration and Audit Act 1977*, the board must include copies of all directions given to it under this section during the financial year.

## **Division 2                      Membership**

### **109      Membership of board**

- (1) The board consists of the following persons appointed by the Governor in Council—
- (a) the person nominated by the Minister as the chairperson of the board (the *chairperson*);
  - (b) 3 nominees of the Minister (the *Minister's consultation nominees*), nominated after consulting with AISQ and QCEC;
  - (c) 1 nominee of the chief executive;
  - (d) 1 nominee of AISQ;
  - (e) 1 nominee of QCEC.
- (2) A Minister's consultation nominee—
- (a) must not be a person who is—
    - (i) an employee of the department; or
    - (ii) working full-time in an accredited school; or
    - (iii) a director of an accredited school's governing body; or
    - (iv) a member of an entity representing the interests of governing bodies of accredited schools; and
  - (b) must have the qualifications, experience or standing the Minister considers appropriate for membership of the board.

**110 Nominee of AISQ or QCEC**

- (1) This section applies to the nomination of a person for membership of the board by an entity under section 109(1)(d) or (e).
- (2) The Minister must give the entity a notice stating a reasonable time within which it may nominate a person for the membership.
- (3) If the entity does not nominate a person for membership of the board within the time stated in the notice, the Minister may nominate a person for membership and the nomination is taken to have been made by the entity.

**111 Term of appointment**

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

**112 Deputy chairperson of board**

- (1) The board must appoint a member as the deputy chairperson of the board.
- (2) The deputy chairperson holds office for the term decided by the board.
- (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.

**113 Disqualification from membership**

- (1) A person can not become, or continue as, a member if the person is, or has been, convicted of an indictable offence.
- (2) This section is subject to section 114.

**114 Discretion if member convicted of indictable offence**

- (1) If the Minister considers it would be reasonable, having regard to the circumstances of the indictable offence of which a person has been convicted, the Minister may—
  - (a) if the person was a member when convicted—give notice to the chairperson and the person that the person is restored as a member, and may be later reappointed, despite the conviction; or
  - (b) otherwise—give written approval for the person to become a member despite the conviction.
- (2) On the day the chairperson receives a notice under subsection (1)(a)—
  - (a) the person is restored as a member; and
  - (b) if another person has been appointed to fill the vacancy—the other person's appointment ends.
- (3) If a person is restored as a member under subsection (2), the person's term of office as a member ends when it would have ended if the person had not been convicted of the offence.

**115 Vacation of office**

- (1) A member is taken to have vacated office 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 113; or
  - (c) is absent, without the board's permission, from 3 consecutive board meetings of which proper notice has been given.

- (2) Also, a member who is a Minister's consultation nominee is taken to have vacated office if the member becomes a person mentioned in section 109(2)(a).
- (3) Subsection (1)(b) has effect subject to section 114.
- (4) In this section—
  - meeting* means—
    - (a) if the member does not attend—a meeting with a quorum present; or
    - (b) if the member attends—a meeting with or without a quorum present.

### **116 When notice of resignation takes effect**

A notice of resignation mentioned in section 112(3) or 115(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.

### **117 Remuneration of a member**

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

## **Division 3 Board business**

### **118 Conduct of business**

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

### **119 Times and places of meetings**

- (1) Board meetings must be held at the times and places the chairperson decides.
- (2) However, the chairperson 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 board.

- (3) The board must meet as often as necessary for it to perform its functions.
- (4) Without limiting subsection (3), the board must meet at least 4 times a year.

## **120 Quorum**

A quorum for the board 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.

## **121 Presiding at meetings**

- (1) The chairperson must preside at all board meetings at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson must preside.
- (3) If the chairperson and deputy chairperson are both absent from a board meeting or the offices are vacant, a member chosen by the members present must preside.

## **122 Attendance by proxy**

- (1) A member may attend a board meeting by proxy.
- (2) A member is not entitled to preside at a meeting merely because the member is the proxyholder for another member who, if present, would be entitled to preside.

## **123 Conduct of meetings**

- (1) A question at a board meeting is decided by a majority of the votes of the members present.
- (2) Each member present at a board 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 a board meeting who abstains from voting is taken to have voted for the negative.

- (4) The board 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, by using teleconferencing.
- (5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
  - (a) notice of the resolution is given under procedures approved by the board; and
  - (b) a majority of the members gives written agreement to the resolution.

## **124 Minutes**

The board must keep minutes of its meetings.

## **125 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 board; 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 a board meeting.
- (3) Unless the board otherwise directs, the interested member must not—
  - (a) be present when the board considers the issue; or
  - (b) take part in a decision of the board about the issue.
- (4) The interested member must not be present when the board is considering whether to give a direction under subsection (3).

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- (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 board 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 a board 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 board 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 board's minutes.

## **Division 4                      Board committees**

### **126      Committees**

- (1) The board may establish committees of the board for effectively and efficiently performing its functions.
- (2) The Non-State Schools Eligibility for Government Funding Committee is taken to be a committee of the board.
- (3) A committee may include a person who is not a member.
- (4) The board must decide the terms of reference of a committee, other than the Non-State Schools Eligibility for Government Funding Committee.
- (5) The board may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

## **Division 5                    Administrative support of board and its committees**

### **127    Administrative support**

The chief executive must ensure the board and its committees have the administrative support services reasonably required for the bodies to carry out their functions effectively and efficiently.

## **Division 6                    Other provisions about the board**

### **128    Board is statutory body under the Financial Administration and Audit Act 1977**

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

### **129    Board is statutory body under the Statutory Bodies Financial Arrangements Act 1982**

- (1) The board is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B<sup>35</sup> sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

### **130    Budget**

- (1) The board must, in relation to each financial year, develop, adopt and submit to the Minister a budget by the day the Minister directs.
- (2) A budget has no effect until approved by the Minister.

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<sup>35</sup> *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)



- (3) During a financial year, the board may develop, adopt and submit to the Minister amendments to its approved budget in relation to the financial year.
- (4) An amendment has no effect until approved by the Minister.

### **131 Compliance with approved budget**

- (1) The board must comply with its approved budget in relation to a financial year.
- (2) If the board makes a disbursement in a financial year that is not provided for in its approved budget in relation to 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 board.
- (3) A person appointed in writing by the Minister for the purpose may recover, on the board's behalf, the amount from the relevant members as a debt.

### **132 Guidelines**

- (1) The board may make guidelines about—
  - (a) the methodology to be followed in considering matters relevant to the board's decision about a school's compliance with the accreditation criteria; or
  - (b) the methodology to be followed in the committee's consideration of the eligibility for Government funding criteria in relation to a school; or
  - (c) administrative matters relevant to applications under this Act.
- (2) A guideline may be amended or replaced by a later guideline made under this section.
- (3) The board must keep copies of a guideline available for supply to persons and allow a person to obtain a copy of the guideline, or a part of the guideline, without fee.

## **Part 2**

# **Non-State Schools Eligibility for Government Funding Committee**

### **133 Establishment of committee**

A committee known as the Non-State Schools Eligibility for Government Funding Committee is established.

### **134 Functions of committee**

The committee has the following functions—

- (a) to assess, or reassess, the eligibility of a school's governing body for Government funding for the school;
- (b) to make recommendations, for the Minister's consideration, about the eligibility of a school's governing body for Government funding for the school.

### **135 Membership of committee**

- (1) The committee consists of the following persons appointed by the Governor in Council—
  - (a) 1 nominee of the Minister, who is the chairperson of the committee;
  - (b) 1 nominee of the Minister (the *Minister's consultation committee nominee*), nominated after consulting with AISQ and QCEC;
  - (c) 1 nominee of the chief executive;
  - (d) 1 nominee of AISQ;
  - (e) 1 nominee of QCEC;
  - (f) 1 nominee of the board who has expertise in demography and town-planning matters, whose nomination is agreed to by the chief executive, AISQ and QCEC.

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- (2) The Minister's consultation committee nominee—
  - (a) must not be a person who is—
    - (i) an employee of the department; or
    - (ii) working full-time in an accredited school; or
    - (iii) a director of an accredited school's governing body; or
    - (iv) a member of an entity representing the interests of governing bodies of accredited schools; and
  - (b) must have the qualifications, experience or standing the Minister considers appropriate to membership of the committee.
- (3) A committee member must be appointed for a term of not more than 4 years.
- (4) Sections 113 to 116<sup>36</sup> apply as if—
  - (a) a member were a committee member; and
  - (b) the chairperson were the committee's chairperson; and
  - (c) the board were the committee.
- (5) Also, section 115(2) applies as if—
  - (a) the reference to a Minister's consultation nominee were a reference to the Minister's consultation committee nominee; and
  - (b) the reference to section 109(2)(a) were a reference to section 135(2)(a).

### **136 Participation of board's chairperson in committee's meetings**

- (1) The board's chairperson may participate in any of the committee's deliberations, but has no voting rights at a meeting of the committee.

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<sup>36</sup> Sections 113 (Disqualification from membership), 114 (Discretion if member convicted of indictable offence), 115 (Vacation of office) and 116 (When notice of resignation takes effect)

- (2) For the purpose mentioned in subsection (1), the committee must give the board's chairperson timely notice of a meeting of the committee.

### **137 Certain nominee committee members**

- (1) This section applies for the nomination of a person for a position on the committee under section 135(1)(d) or (e).
- (2) The board must give the entity who may make the nomination a notice stating a reasonable time within which it may nominate the person for the position.
- (3) If the entity does not nominate a person for the position within the time stated in the notice, the board may nominate a person for the position and the nomination is taken to have been made by the entity.

### **138 Remuneration of a committee member**

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

### **139 Disclosure of interests by committee members**

- (1) This section applies to a committee member (the *interested member*) if—
  - (a) the interested member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the committee; and
  - (b) the interest could conflict with the proper performance of the interested member's duties about the consideration of 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 a committee meeting.
- (3) Unless the committee otherwise directs, the interested member must not—

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- (a) be present when the committee considers the issue; or
  - (b) take part in a decision of the committee about the issue.
- (4) The interested member must not be present when the committee is considering whether to give a direction under subsection (3).
- (5) If there is another committee member who must, under subsection (2), also disclose an interest in the issue, the other committee member must not—
- (a) be present when the committee is considering whether to give a direction under 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 committee member is not present at a committee 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 committee member were present;
- the remaining committee members present are a quorum of the committee 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 committee's minutes.

## **Part 3                      Authorised persons**

### **Division 1                Preliminary**

#### **140      Application of Commission for Children and Young People and Child Guardian Act 2000, pt 6**

For the *Commission for Children and Young People and Child Guardian Act 2000*, part 6,<sup>37</sup> a person is taken to be a person carrying on a regulated business under that Act by being an authorised person.

### **Division 2                Functions and powers of authorised persons**

#### **141      Functions of assessor**

An assessor has the functions of finding out the following—

- (a) whether a provisionally accredited, or accredited, school is complying with the accreditation criteria;
- (b) whether a Government-funded school is not being operated for profit;
- (c) whether an accredited school, the governing body of which is applying for Government funding for the school, is not being operated for profit;
- (d) whether the governing body of a Government-funded school is a party to a prohibited arrangement in relation to the operation of the school;
- (e) whether there is a direct or indirect connection between the governing body of a Government-funded school and a for-profit entity that could reasonably be expected to compromise the independence of the governing body when making financial decisions;

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<sup>37</sup> *Commission for Children and Young People and Child Guardian Act 2000*, part 6 (Screening for regulated employment and regulated businesses)

- (f) whether the governing body of an accredited school that is applying for Government funding for the school is a party to, or intends to enter into, a prohibited arrangement in relation to the operation of the school;
- (g) whether there is a direct or indirect connection between the governing body of an accredited school that is applying for Government funding for the school and a for-profit entity that could reasonably be expected to compromise the independence of the governing body when making financial decisions;
- (h) whether the governing body of a provisionally accredited, or accredited, school is suitable to continue to be the school's governing body.<sup>38</sup>

#### **142 Function of auditor**

An auditor has the function of verifying school survey data relating to a provisionally accredited, or accredited, school given to the board under section 166.<sup>39</sup>

#### **143 Powers of authorised person**

For this Act, an authorised person has the powers given to the person under this Act.

### **Division 3 Appointment of authorised persons and other matters**

#### **144 Appointment**

- (1) The board may, in writing, appoint a person as an assessor if the board considers the person—
  - (a) has the necessary expertise or experience to be an assessor; and

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<sup>38</sup> See section 39 (Suitability of governing body).

<sup>39</sup> Section 166 (School survey data)

- (b) to be a suitable person to perform the function of an assessor.
- (2) Subsection (1) does not limit the issues the board may consider when deciding whether to appoint a person as an assessor.
- (3) The board may, in writing, appoint a person as an auditor if the board considers the person—
  - (a) has the necessary expertise or experience to be an auditor; and
  - (b) to be a suitable person to perform the function of an auditor.
- (4) Subsection (3) does not limit the issues the board may consider when deciding whether to appoint a person as an auditor.
- (5) A person may be appointed both an assessor and an auditor.

#### **145 Suitability of proposed authorised person**

- (1) This section applies if the board is considering whether to appoint a person as an assessor or auditor.
- (2) The board must decide that the person is not a suitable person to perform the function of an assessor or auditor if the person does not have a current positive notice.
- (3) Also, in considering the suitability of the person to perform the function of an assessor or auditor, the board must have regard to, and may make inquiries about, the person's character and standing.
- (4) Subsections (2) and (3) do not limit the issues to which the board may have regard in considering the suitability of a person to perform the function of an assessor or auditor.

#### **146 Appointment conditions**

- (1) An authorised person holds office on the conditions stated in the instrument of appointment.



- (2) One of the conditions must be that the authorised person notify the board of any application made, under the *Commission for Children and Young People and Child Guardian Act 2000*, section 101<sup>40</sup> by the authorised person to the commissioner for a further prescribed notice within 7 days after making the application.
- (3) If the instrument of appointment provides for a term of appointment, the authorised person ceases to hold office at the end of the term.
- (4) An authorised person may resign by signed notice of resignation given to the board.

#### **147 Identity card**

- (1) The board must give an identity card to each authorised person.
- (2) The identity card must—
  - (a) contain a recent photograph of the authorised person; and
  - (b) contain a copy of the authorised person's signature; and
  - (c) identify the person as an assessor, an auditor, or an assessor and an auditor, for this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other Acts.

#### **148 Failure to return identity card**

A person who ceases to be an authorised person must return the person's identity card to the chairperson within 7 days after the person ceases to be an authorised person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

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<sup>40</sup> *Commission for Children and Young People and Child Guardian Act 2000*, section 101 (Application for notice—regulated business)

**149 Production or display of authorised person's identity card**

An authorised person may exercise a power in relation to someone else (the *other person*) only if the authorised person—

- (a) first produces the authorised person's identity card for the other person's inspection; or
- (b) has the identity card displayed so it is clearly visible to the other person.

**Division 4 Powers of assessors**

**150 Purpose of div 4**

The purpose of this division is to provide for the assessor's powers that are necessary to be exercised for preparing a report mentioned in section 33, 38, 38C, 41A, 62, 73B, 98A or 192.

**151 Entry of school premises by assessor**

An assessor may enter a school's premises, during ordinary office hours, after complying with section 152.

**152 Notice of entry**

- (1) If an assessor wishes to enter a school's premises, the assessor must give the school's governing body a notice advising the governing body—
  - (a) the purpose of the entry; and
  - (b) the day on which entry is proposed.
- (2) The day on which entry is proposed must not be less than 14 days after the day the notice is given to the governing body.
- (3) In deciding the period of notice to be given before entering the school's premises, the assessor must have regard to the circumstances of the proposed entry.

### **153 General powers after entering premises**

- (1) This section applies to an assessor who enters a school's premises under section 151.
- (2) For performing the assessor's function, the assessor may—
  - (a) inspect any part of the premises that are usually used for the teaching of students; or
  - (b) take an extract, or copy, of a document at the premises; or
  - (c) require the school's governing body to give the assessor information, or produce a document to the assessor, to help the assessor to prepare the report.

## **Division 5 Powers of auditors**

### **154 Entry of school premises by auditor**

An auditor may enter a school's premises, during ordinary office hours, after complying with section 155.

### **155 Notice of entry**

- (1) If an auditor wishes to enter a school's premises, the auditor must give the school's governing body a notice advising the governing body—
  - (a) the purpose of the entry; and
  - (b) the day on which entry is proposed.
- (2) There must be at least 1 day between the day the notice is given to the governing body and the day on which entry is proposed.
- (3) In deciding the period of notice to be given before entering the school's premises, the auditor must have regard to the circumstances of the proposed entry.

## **156 General powers after entering premises**

- (1) This section applies to an auditor who enters a school's premises under section 154.
- (2) For performing the auditor's function, the auditor may—
  - (a) physically verify—
    - (i) for a school offering classroom education—that certain students enrolled for classroom education at the school are attending the school; or
    - (ii) for a school offering distance education—that certain students enrolled for distance education at the school are undertaking the education; or
  - (b) take an extract, or copy, of a document at the premises; or
  - (c) require the school's governing body to give the auditor information or produce a document to the auditor.

## **Division 6 General enforcement matters**

### **157 Impersonation of authorised person**

A person must not pretend to be an authorised person.

Maximum penalty—100 penalty units.

## **Part 4 Legal proceedings**

### **Division 1 Evidence**

#### **158 Application of div 1**

This division applies to a proceeding under this Act.

## **159 Appointments and authority**

It is not necessary to prove—

- (a) a member's, committee member's, or authorised person's appointment; or
- (b) the Minister's appointment; or
- (c) the authority of the Minister, or a member, committee member or authorised person to do anything under this Act.

## **160 Signatures**

A signature purporting to be the signature of the Minister, the chairperson, the committee's chairperson, or a member, committee member or authorised person is evidence of the signature it purports to be.

## **161 Evidentiary provisions**

- (1) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
  - (a) a stated document is one of the following things made, given, issued or kept under this Act—
    - (i) an appointment, approval or decision;
    - (ii) a notice, direction or requirement;
    - (iii) a certificate of provisional accreditation;
    - (iv) a certificate of accreditation;
    - (v) a record, or an extract from a record;
    - (vi) the register, or an extract from the register;
  - (b) a stated document is another document kept under this Act;
  - (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);
  - (d) on a stated day, or during a stated period, a stated school was or was not provisionally accredited;

- (e) on a stated day, or during a stated period, a stated school was or was not accredited;
  - (f) on a stated day, or during a stated period, a provisional accreditation or accreditation of a school was or was not in force;
  - (g) on a stated day, a provisional accreditation or accreditation of a school was cancelled;
  - (h) on a stated day, or during a stated period, a school's governing body was or was not eligible for Government funding for the school;
  - (i) on a stated day, or during a stated period, an appointment as an authorised person was, or was not, in force for a stated person;
  - (j) on a stated day, a stated person was given a stated notice or direction under this Act;
  - (k) on a stated day, a stated requirement was made of a stated person.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the matter stated.

## **Division 2                      Proceedings**

### **162      Summary proceedings for offences**

- (1) Proceedings for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) The proceeding must start—
  - (a) within 1 year after the commission of the offence; or
  - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

- (3) Proceedings for an offence against section 10<sup>41</sup> may only be taken on the complaint of the Minister.

**163 Allegations of false or misleading information or documents**

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, ‘false or misleading’.

## **Part 5 Register**

**164 Register to be kept**

- (1) The board must keep a register about provisionally accredited, and accredited, schools.
- (2) The register may be kept in the way the board considers appropriate, including, for example, in an electronic form.
- (3) The register must contain each of the following details for a provisionally accredited, or accredited, school—
- (a) the school’s name;
  - (b) if the school is provisionally accredited—
    - (i) the school’s student-intake day; and
    - (ii) the school’s provisional accreditation period; and
    - (iii) the attributes of provisional accreditation applying to the school;
  - (c) if the school is accredited—
    - (i) the day of its accreditation; and

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<sup>41</sup> Section 10 (Offence of operating a school without accreditation or provisional accreditation)

- (ii) the attributes of accreditation applying to the school;
- (d) details of the type of education that may be provided at the school;
- (e) any other details prescribed under a regulation.

### **165 Inspection of register**

The board must—

- (a) keep the register open for inspection, on payment of the fee if any prescribed under a regulation, at the board office by members of the public during ordinary office hours; and
- (b) give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.

## **Chapter 6 Miscellaneous**

### **166 School survey data**

- (1) This section applies to the governing body of—
  - (a) a provisionally accredited school that is in operation; or
  - (b) an accredited school.
- (2) The governing body must in the approved form give the board school survey data, for the school, relating to the day prescribed under a regulation (the *relevant day*).
- (3) The data must be given within 7 days after the relevant day.

### **167 Notification of change in circumstances**

- (1) This section applies to the governing body of—
  - (a) a provisionally accredited school that is in operation; or
  - (b) an accredited school.



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- (2) The governing body must within 14 days after the happening of each of the following events notify the board of the event—
- (a) the closure of the school;
  - (b) the school stops offering a year of schooling for which it is provisionally accredited or accredited;
  - (c) the governing body is affected by control action under the Corporations Act;
  - (d) for a Government-funded school—the school starts to be operated for profit;
  - (e) any other change in the governing body's, or school's, circumstances prescribed under a regulation.

Maximum penalty—20 penalty units.

- (3) For subsection (2)(c), the governing body is affected by control action under the Corporations Act if the governing body—
- (a) has executed a deed of company arrangement under the law; or
  - (b) is the subject of a winding-up (whether voluntarily or under a court order) under that Act; or
  - (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under that Act.

**168 Disclosure of application for prescribed notice under Commission for Children and Young People and Child Guardian Act 2000**

- (1) Subsection (3) applies if—
- (a) an application is made to the board for the provisional accreditation, or accreditation, of a school and the application has not been decided; and
  - (b) a director of the school's governing body applies, under the *Commission for Children and Young People and*

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*Child Guardian Act 2000*, section 101<sup>42</sup> to the commissioner for a prescribed notice.

- (2) Subsection (3) also applies if—
- (a) an application is made to the board under section 49, or section 49 as applied by section 59, for a change in a provisionally accredited, or accredited, school's governing body and the application has not been decided; and
  - (b) a director of the school's proposed governing body applies, under the *Commission for Children and Young People and Child Guardian Act 2000*, section 101 to the commissioner for a prescribed notice.
- (3) The director must, within 7 days after making the application for the prescribed notice, notify the board of the application.

Maximum penalty—20 penalty units.

**169 Disclosure of details of any indictable offence**

- (1) Subsection (2) applies to a person who—
- (a) becomes a director of the governing body of a provisionally accredited, or accredited, school; and
  - (b) has a criminal history.
- (2) The person must, within 7 days after becoming a director of the governing body, give the board a notice stating—
- (a) the name, address and date of birth of the person; and
  - (b) details of any indictable offence included in the criminal history.

Maximum penalty—20 penalty units.

- (3) Subsection (6) applies if a director of the governing body of a provisionally accredited, or accredited, school is convicted of an indictable offence.
- (4) Also, subsection (6) applies if—

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<sup>42</sup> *Commission for Children and Young People and Child Guardian Act 2000*, section 101 (Application for notice—regulated business)

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- (a) an application is made to the board for the provisional accreditation, or accreditation, of a school and the application has not been decided; and
  - (b) a director of the school's governing body is convicted of an indictable offence.
- (5) In addition, subsection (6) applies if—
- (a) an application is made to the board under section 49, or section 49 as applied by section 59, for a change in a provisionally accredited, or accredited, school's governing body and the application has not been decided; and
  - (b) a director of the proposed governing body of the school is convicted of an indictable offence.
- (6) The director must, within 7 days after the conviction, give the board a notice stating details of the indictable offence.
- Maximum penalty—20 penalty units.
- (7) A notice given under this section must be signed by the person giving the notice.

## **170 Protecting officials from liability**

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—
  - official* means—
  - (a) the Minister; or
  - (b) a member; or
  - (c) a member of a board committee, established under section 126,<sup>43</sup> who is not a board member; or
  - (d) an authorised person.

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43 Section 126 (Committees)

**171 Publication of information identifying school operating without accreditation or provisional accreditation**

- (1) If the board, honestly and on reasonable grounds, believes a school is being operated without accreditation or provisional accreditation, the board may publish information that identifies, or is likely to lead to the identification of, the school.
- (2) The board and the board members are not liable, civilly, criminally or under an administrative process, for publishing the information.
- (3) Without limiting subsection (2)—
  - (a) in a proceeding for defamation, the board and each board member has a defence of absolute privilege for publishing the information; and
  - (b) if the board or a board member would otherwise be required to maintain confidentiality about the published information under an Act, oath, rule of law or practice—the board or the board member does not contravene the requirement by publishing the information.

**172 False or misleading information or documents**

- (1) A person must not give information to the board or committee the person knows is false or misleading in a material particular.  
Maximum penalty—20 penalty units.
- (2) A person must not give the board or committee a document containing information the person knows is false or misleading in a material particular.  
Maximum penalty—20 penalty units.
- (3) Subsection (2) does not apply to a person if the person, when giving the document—
  - (a) tells the board or committee, to the best of the person's ability, how it is false or misleading; and

- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

### **173 Confidentiality of information**

- (1) This section applies to the following persons—
  - (a) a person who is, or was, the Minister;
  - (b) a person who is, or was, a member;
  - (c) a person who is, or was, a committee member;
  - (d) a person who is, or was, an authorised person;
  - (e) another person who is, or was, involved in the administration of this Act, including, for example, as a public service employee.
- (2) The person must not disclose protected information if—
  - (a) the disclosure would be likely to adversely affect the commercial interests of the person to whom the information relates; or
  - (b) it is about a child and identifies, or is likely to identify, the child; or
  - (c) it is about someone else’s criminal history.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply if—
  - (a) the information is disclosed—
    - (i) in the performance of functions under this Act; or
    - (ii) with the written consent of—
      - (A) if the person to whom the information relates is not a child—the person; or
      - (B) if the person to whom the information relates is a child—a parent or guardian of the child; or
    - (iii) to the person to whom the information relates; or
  - (b) the information is otherwise publicly available; or

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- (c) the information is given in all the following circumstances—
    - (i) the chief executive gives the information to the Commonwealth or another State, or an entity of the Commonwealth or another State, under an agreement with the Commonwealth, other State or entity;
    - (ii) the agreement is prescribed under a regulation for this paragraph;
    - (iii) the chief executive is satisfied the giving of the information is in the public interest; or
  - (d) the information is disclosed to the chief executive to allow the chief executive to act under paragraph (c); or
  - (e) the disclosure of the information is authorised or permitted under an Act or required by law.
- (4) The Commonwealth, other State or entity that receives information under subsection (3)(c)—
- (a) must not give the information to anyone else; and
  - (b) must ensure the information is used only for the purpose for which it was given.
- (5) In this section—

*information* includes a document.

*protected information* means information disclosed to, or obtained by, a person to whom this section applies in the course of performing, or because of, the person's functions under this Act.

**174 Claim by person as to accreditation or provisional accreditation of school**

- (1) A person must not hold out a school as being accredited if it is not accredited.

Maximum penalty—100 penalty units.

- (2) A person must not hold out a school as being provisionally accredited if it is not provisionally accredited.

Maximum penalty—100 penalty units.

### **175 Delegation by Minister**

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

- (2) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

a person's classification level in a department

### **176 Approval of forms**

The board may approve forms for use under this Act.

### **177 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about fees, including the refunding of fees, for this Act.

## **Chapter 7 Transitional provisions for Act No. 60 of 2001**

### **Part 1 Preliminary**

#### **178 Definitions for ch 7**

In this part—

**commencement** means commencement of this section.

**General Provisions Act** means the *Education (General Provisions) Act 1989*.

## **Part 2**                      **Non-State Schools under General Provisions Act**

### **179 Existing operating non-State school under General Provisions Act**

- (1) This section applies to a school that, immediately before the commencement, was an operating non-State school under the General Provisions Act.
- (2) The school is taken to be accredited to provide the type of education it was providing immediately before the commencement.
- (3) The accreditation is subject to—
  - (a) any attribute, of a type mentioned in section 16(3),<sup>44</sup> applying to the school immediately before the commencement; and
  - (b) any condition, as mentioned in section 2A(4)<sup>45</sup> of the General Provisions Act, applying to the school immediately before the commencement.
- (4) The attribute or condition is taken to be an attribute of accreditation applying to the school.
- (5) The board must, as soon as practicable after the commencement, issue a certificate of accreditation to the school's governing body.

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<sup>44</sup> Section 16 (Procedural requirements for application)

<sup>45</sup> Section 2A (Decision about non-State school) of the General Provisions Act



**180 Existing non-operating non-State school under General Provisions Act**

- (1) This section applies to a school that, immediately before the commencement, was a non-State school under the General Provisions Act, but was not in operation.
- (2) The school is taken to be provisionally accredited to provide the type of education it was allowed to provide immediately before the commencement.
- (3) The provisional accreditation is subject to—
  - (a) any attribute, of a type mentioned in section 16(3), applying to the school immediately before the commencement; and
  - (b) any condition, as mentioned in section 2A(4) of the General Provisions Act, applying to the school immediately before the commencement.
- (4) The attribute or condition is taken to be an attribute of provisional accreditation applying to the school.
- (5) The school's governing body is taken to have made application, under section 16, to the board for the accreditation of the school.
- (6) The school's student-intake day is taken to be the school's first day of operation mentioned in the application made under guidelines mentioned in section 2(2) of the General Provisions Act for the purpose of the Minister forming the opinion that the school is a non-State school under that Act.
- (7) The board must, as soon as practicable after the commencement, issue a certificate of provisional accreditation to the school's governing body.

**181 Existing application for non-State school status—operating school**

- (1) This section applies if, before the commencement—
  - (a) an application was made, under the guidelines mentioned in section 2(2) of the General Provisions Act, for the purpose of the Minister forming the opinion that

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an operating school is a non-State school under that Act;  
and

- (b) the application had not been decided.
- (2) The application must be decided by the Minister, under the General Provisions Act, as if this Act had not commenced.
- (3) Subsections (4) to (8) apply if the Minister decides to grant the application.
- (4) The school is taken to be accredited to provide the type of education it was providing immediately before the commencement.
- (5) The accreditation is subject to—
  - (a) any attribute, of a type mentioned in section 16(3), applying to the school immediately before the commencement; and
  - (b) any condition, as mentioned in section 2A(4) of the General Provisions Act, applying to the school immediately before the commencement.
- (6) The attribute or condition is taken to be an attribute of accreditation applying to the school.
- (7) The conditions mentioned in guideline 2.5 of the guidelines are not to attach to the accreditation.
- (8) The board must, as soon as practicable, issue a certificate of accreditation to the school's governing body.

**182 Outstanding review of Minister's decision—operating school**

- (1) This section applies if, before the commencement—
  - (a) the Minister decided to refuse to grant an application made, in relation to an operating school, under the guidelines mentioned in section 2(2) of the General Provisions Act for the purpose of the Minister forming the opinion that the school is a non-State school under that Act; and

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- (b) the applicant had made a submission about the decision under guideline 2.4 of the guidelines and the submission had not been finally considered by the Minister.
- (2) The submission must be considered by the Minister, under the General Provisions Act, as if this Act had not commenced.
- (3) Subsections (4) to (8) apply if the Minister decides, after considering the submission, to grant the application.
- (4) The school is taken to be accredited to provide the type of education it was providing immediately before the commencement.
- (5) The accreditation is subject to—
  - (a) any attribute, of a type mentioned in section 16(3), applying to the school immediately before the commencement; and
  - (b) any condition, as mentioned in section 2A(4) of the General Provisions Act, applying to the school immediately before the commencement.
- (6) The attribute or condition is taken to be an attribute of accreditation applying to the school.
- (7) The conditions mentioned in guideline 2.5 of the guidelines are not to attach to the accreditation.
- (8) The board must, as soon as practicable, issue a certificate of accreditation to the school's governing body.

**183 Existing application for non-State school status—non-operating school**

- (1) This section applies if, before the commencement—
  - (a) an application was made, under the guidelines mentioned in section 2(2) of the General Provisions Act, for the purpose of the Minister forming the opinion that a school not in operation is a non-State school under that Act; and
  - (b) the application had not been decided.
- (2) The application must be decided by the Minister, under the General Provisions Act, as if this Act had not commenced.

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- (3) Subsections (4) to (10) apply if the Minister decides to grant the application.
- (4) The school is taken to be provisionally accredited to provide the type of education that was the subject of the application.
- (5) The provisional accreditation is subject to—
  - (a) any attribute, of a type mentioned in section 16(3), applying to the school immediately before the commencement; and
  - (b) any condition, as mentioned in section 2A(4) of the General Provisions Act, applying to the school immediately before the commencement.
- (6) The attribute or condition is taken to be an attribute of provisional accreditation applying to the school.
- (7) The school's governing body is taken to have made application, under section 16, to the board for the accreditation of the school.
- (8) The school's student-intake day is taken to be the school's first day of operation mentioned in the application made under the guidelines.
- (9) The conditions mentioned in guideline 2.5 of the guidelines are not to attach to the provisional accreditation.
- (10) The board must, as soon as practicable, issue a certificate of provisional accreditation to the school's governing body.

**184 Outstanding review of Minister's decision—non-operating school**

- (1) This section applies if, before the commencement—
  - (a) the Minister decided to refuse to grant an application made, under the guidelines mentioned in section 2(2) of the General Provisions Act, for the purpose of the Minister forming the opinion that a school not in operation is a non-State school under that Act; and
  - (b) the applicant had made a submission about the decision under guideline 2.4 of the guidelines and the submission had not been finally considered by the Minister.

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- (2) The submission must be considered by the Minister, under the General Provisions Act, as if this Act had not commenced.
- (3) Subsections (4) to (10) apply if the Minister decides, after considering the submission, to grant the application.
- (4) The school is taken to be provisionally accredited to provide the type of education that was the subject of the application.
- (5) The provisional accreditation is subject to—
  - (a) any attribute, of a type mentioned in section 16(3), applying to the school immediately before the commencement; and
  - (b) any condition, as mentioned in section 2A(4) of the General Provisions Act, applying to the school immediately before the commencement.
- (6) The attribute or condition is taken to be an attribute of provisional accreditation applying to the school.
- (7) The school's governing body is taken to have made application, under section 16, to the board for the accreditation of the school.
- (8) The school's student-intake day is taken to be the school's first day of operation mentioned in the application made under the guidelines.
- (9) The conditions mentioned in guideline 2.5 of the guidelines are not to attach to the provisional accreditation.
- (10) The board must, as soon as practicable, issue a certificate of provisional accreditation to the school's governing body.

**185 Governing body of school is not a corporation**

- (1) This section applies if—
  - (a) a school is provisionally accredited, or accredited, under this division; and
  - (b) the governing body of the school is not a corporation at the time of the provisional accreditation or accreditation.

- (2) Despite section 11,<sup>46</sup> the school may continue to have a governing body that is not a corporation for up to 2 years after the commencement.

## **Part 3                      Schools in receipt of subsidy under General Provisions Act**

### **186      School in receipt of subsidy under General Provisions Act**

- (1) This section applies to a school that—
- (a) immediately before the commencement, was categorised, or provisionally categorised, as a school in receipt of subsidy under section 141<sup>47</sup> of the General Provisions Act; and
  - (b) is accredited under section 179 or provisionally accredited under section 180.
- (2) The school is taken to be a school, the governing body of which is eligible for Government funding for the same aspects of the operation of the school as under the categorisation or provisional categorisation.
- (3) If the categorisation or provisional categorisation relates to at least 1 year of schooling, but not all the years of schooling, in a sector of schooling, the school is also taken to be a school, the governing body of which is eligible for Government funding for the other years of schooling in the sector of schooling.
- (3A) Subsection (3B) applies if, immediately before the commencement, there was in force a planning approval under the General Provisions Act for the school for aspects of the operation of the school (the *planning approval aspects*) other

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<sup>46</sup> Section 11 (Governing body of provisionally accredited, or accredited, school)

<sup>47</sup> Section 141 (Provision of scholarships and allowances) of the General Provisions Act

than the aspects as under the categorisation or provisional categorisation.

- (3B) The school is also taken to be a school, the governing body of which is eligible for Government funding for the planning approval aspects.
- (4) Section 93(a)<sup>48</sup> does not apply to the school for a period of 6 months after the commencement.

### **187 Existing application for categorisation as a school in receipt of subsidy**

- (1) This section applies if—
  - (a) before the commencement, an application was made under section 141 of the General Provisions Act for the categorisation of a school as a school in receipt of subsidy; and
  - (b) the application had not been decided before the commencement; and
  - (c) the school is accredited under section 179 or provisionally accredited under section 180.
- (2) The application must be decided by the Minister, under the General Provisions Act, as if this Act had not commenced.
- (3) Subsections (4) to (6) apply if the Minister decides to provisionally categorise, or categorise, the school as a school in receipt of subsidy under section 141 of the General Provisions Act.
- (4) The school is taken to be a school, the governing body of which is eligible for Government funding for the same aspects of the operation of the school as the aspects of the operation of the school to which the provisional categorisation or categorisation relates.
- (5) If the categorisation or provisional categorisation relates to at least 1 year of schooling, but not all the years of schooling, in a sector of schooling, the school is also taken to be a school,

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48 Section 93 (Grounds for withdrawal)

the governing body of which is eligible for Government funding for the other years of schooling in the sector of schooling.

- (5A) Subsection (5B) applies if, immediately before the commencement, there was in force a planning approval under the General Provisions Act for the school for aspects of the operation of the school (the *planning approval aspects*) other than the aspects to which the provisional categorisation or categorisation relates.
- (5B) The school is also taken to be a school, the governing body of which is eligible for Government funding for the planning approval aspects.
- (6) Section 93(a) does not apply to the school for a period of 6 months after the Minister decides the application.

## Part 4**Schools allowed to offer years 1 to 3 of schooling, but not preschool year of schooling**

### **188 Application of pt 4**

This part applies to a school that—

- (a) is accredited under part 2; and
- (b) is under part 3 a school, the governing body of which is eligible for Government funding for the school; and
- (c) is allowed, at the commencement, to offer years 1 to 3 of schooling under the accreditation; and
- (d) is not allowed, at the commencement, to offer the preschool year of schooling under the accreditation; and
- (e) the school's governing body applies before the end of 2009, under chapter 2, part 3, division 3,<sup>49</sup> to extend the years of schooling allowed to be offered at the school to include the preschool year of schooling.



## **189 Application of provisions**

- (1) Section 50,<sup>50</sup> as applied by section 59, does not apply to the application.
- (2) Section 53(3)<sup>51</sup> applies to the application as if the reference to 9 months were a reference to 6 months.

## **190 Notification of first day of preschool education**

- (1) This section applies if the board decides to grant the application.
- (2) The school's governing body must notify the board of the first day of education of students in the preschool year of schooling within 14 days after the day.

## **191 Assessment within first year of preschool education**

- (1) The board must after the assessment day start an assessment of the school, to decide whether the school is complying with the accreditation criteria.
- (2) The board may conduct not more than 2 assessments of the school under this section.
- (3) In this section—  
*assessment day* means—
  - (a) a day agreed to by the board and the school's governing body; or
  - (b) the day, of which the board has notified the governing body, that is at least 6 months after the first day of education of students in the preschool year of schooling.

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49 Chapter 2 (Accreditation of schools), part 3 (Changes in provisional accreditation period, attributes of provisional accreditation or attributes of accreditation), division 3 (Changes in attributes of accreditation)

50 Section 50 (If applicant is eligible for Government funding for aspect of operation of school)

51 Section 53 (Failure to decide application)

## 192 Report by assessor

- (1) To assess a school under section 191, the board must obtain a written report from an assessor about whether the school is complying with the accreditation criteria.
- (2) To prepare the report, the assessor may exercise the assessor's powers under chapter 5, part 3.<sup>52</sup>

## Part 5 Schools that are not non-State schools under General Provisions Act

### 193 Existing operating school

- (1) This section applies to an operating school that, immediately before the commencement—
  - (a) was not a non-State school under the General Provisions Act; and
  - (b) is not the subject of an application made under the guidelines mentioned in section 2(2) of the General Provisions Act.
- (2) Section 10<sup>53</sup> does not apply to the school for a period of 6 months after the commencement (the *exemption period*).
- (3) Subsections (4) to (8) apply if the school's governing body makes application for the accreditation of the school within the exemption period.
- (4) If the board decides to provisionally accredit the school—
  - (a) the board must also decide the school's provisional accreditation period and notify the governing body of the decision; and

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52 Chapter 5 (Administration), part 3 (Authorised persons)

53 Section 10 (Offence of operating a school without accreditation or provisional accreditation)

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- (b) sections 24(2) and 25<sup>54</sup> do not apply to the school.
- (5) The school's provisional accreditation period must not end before 6 months after the day of the board's decision.
- (6) Subsection (7) applies if, immediately before the commencement, there was not in force a planning approval for the school under the General Provisions Act.
- (7) Despite section 17(1),<sup>55</sup> section 17 applies to the application if—
  - (a) the applicant indicates in the application that the applicant seeks Government funding for the school; and
  - (b) the board is satisfied the school is not being operated for profit.
- (8) If the governing body does not receive written notice of the decision about the application until after the exemption period, the exemption under subsection (2) continues to apply from the day that it would, apart from this subsection, have ended until—
  - (a) the last day to apply for a review of the decision; or
  - (b) if an application is made for a review of the decision—the day the application is decided or otherwise disposed of.

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54 Sections 24 (Provisional accreditation period) and 25 (Operation of provisionally accredited school before its student-intake day)

55 Section 17 (If applicant seeks Government funding for the school)

## **Part 6                      Schools with planning approval under General Provisions Act**

### **Division 1                  School is not a non-State school under General Provisions Act**

#### **194    Application of div 1**

This division applies to a school for which, immediately before the commencement, there was in force a planning approval under the General Provisions Act.

#### **195    Application for accreditation**

- (1) This section applies if—
  - (a) the governing body applies for the accreditation of the school within 3 years after the commencement; and
  - (b) the application accords with the details of the planning approval.
- (2) The school is taken to be a school, the governing body of which is eligible for Government funding for the school.
- (3) Sections 17 and 20<sup>56</sup> do not apply to the application.
- (4) Section 21(2)<sup>57</sup> applies to the application as if the reference to 9 months were a reference to 6 months.
- (5) Subsections (6) and (7) apply if the planning approval is subject to a condition.
- (6) If the board provisionally accredits the school—
  - (a) the provisional accreditation is subject to the condition; and

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<sup>56</sup> Sections 17 (If applicant seeks Government funding for the school) and 20 (If applicant seeks Government funding for the school)

<sup>57</sup> Section 21 (Failure to decide to provisionally accredit school)

- (b) the condition is taken to be an attribute of provisional accreditation applying to the school.
- (7) If the board decides to grant the application—
  - (a) the accreditation is subject to the condition; and
  - (b) the condition is taken to be an attribute of accreditation applying to the school.

**Division 2                      School is a non-State school under  
General Provisions Act and has  
planning approval to change aspect  
of school, other than type of  
education**

**196      Application of div 2**

This division applies to a school—

- (a) that, immediately before the commencement, was a non-State school under the General Provisions Act; and
- (b) for which, immediately before the commencement, there was in force a planning approval to significantly modify the school under the General Provisions Act relating to a change mentioned in paragraph (c), (d), (e), (f) or (g) of the definition *significantly modifying* in section 2(1) of that Act; and
- (c) for which, immediately before the commencement, the details of the planning approval had not been incorporated into the details of the school's non-State school status under the General Provisions Act.

**197      Application to change attribute of provisional  
accreditation**

- (1) This section applies if—
  - (a) the school is provisionally accredited under section 180; and

- (b) the school's governing body applies under section 49, within 18 months after the commencement, to change an attribute of provisional accreditation applying to the school, so that the attribute accords with the details of the planning approval.
- (2) For the application, the school is taken to be a school, the governing body of which is eligible for Government funding for the aspect of the school's operation mentioned in the details of the planning approval.
- (3) Sections 50, 54 and 55<sup>58</sup> do not apply to the application.

### **198 Application to change attribute of accreditation**

- (1) This section applies if—
  - (a) the school is accredited under section 179; and
  - (b) the school's governing body applies under section 49 as applied by section 59, within 18 months after the commencement, to change an attribute of accreditation applying to the school, so that the attribute accords with the details of the planning approval.
- (2) For the application, the school is taken to be a school, the governing body of which is eligible for Government funding for the aspect of the school's operation mentioned in the details of the planning approval.
- (3) Sections 50, 54 and 55, as applied by section 59, do not apply to the application.

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<sup>58</sup> Sections 50 (If applicant is eligible for Government funding for aspect of operation of school), 54 (Consideration by committee of effect on eligibility for Government funding for school) and 55 (Decision of Minister)

**Division 3**                      **School is a non-State school under  
General Provisions Act and has  
planning approval to change type of  
education**

**199**    **Application of div 3**

This division applies to a school—

- (a) that, immediately before the commencement, was a non-State school under the General Provisions Act; and
- (b) for which, immediately before the commencement, there was in force a planning approval to significantly modify the school under the General Provisions Act relating to a change mentioned in paragraph (a) or (b) of the definition *significantly modifying* in section 2(1) of that Act; and
- (c) in relation to which, immediately before the commencement, the details of the planning approval had not been incorporated into the details of the school's non-State school status under the General Provisions Act.

**200**    **Application for accreditation**

- (1) This section applies if, within 18 months after the commencement, the school's governing body applies for the accreditation of the school that accords with the details of the planning approval.
- (2) For the application, the school is taken to be a school, the governing body of which is eligible for Government funding for the school.
- (3) Sections 17 and 20<sup>59</sup> do not apply to the application.

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59 Sections 17 (If applicant seeks Government funding for the school) and 20 (If applicant seeks Government funding for the school)

- (4) Section 21(2)<sup>60</sup> applies to the application as if the reference to 9 months were a reference to 6 months.

## **Part 7                      Schools for which application made for planning approval under General Provisions Act**

### **Division 1                School is not a non-State school under General Provisions Act**

#### **201    Existing application for planning approval**

- (1) This section applies if—
- (a) immediately before the commencement, a school was not a non-State school, or school in receipt of subsidy, under the General Provisions Act; and
  - (b) an application was made, before the commencement, for a planning approval, under the General Provisions Act, for the school; and
  - (c) the application had not been decided before the commencement.
- (2) The Minister must decide the application, under the General Provisions Act, as if this Act had not commenced.

#### **202    Application for accreditation**

- (1) This section applies if—
- (a) under section 201, the Minister issues a planning approval for the school under the General Provisions Act; and

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60 Section 21 (Failure to decide to provisionally accredit school)



*Education (Accreditation of Non-State Schools) Act  
2001*

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- (b) the school's governing body applies for the accreditation of the school within 3 years after the commencement; and
  - (c) the application accords with the details of the planning approval.
- (2) The school is taken to be a school, the governing body of which is eligible for Government funding for the school.
  - (3) Sections 17 and 20 do not apply to the application.
  - (4) Section 21(2) applies to the application as if the reference to 9 months were a reference to 6 months.
  - (5) Subsections (6) and (7) apply if the planning approval is subject to a condition.
  - (6) If the board provisionally accredits the school—
    - (a) the provisional accreditation is subject to the condition; and
    - (b) the condition is taken to be an attribute of provisional accreditation applying to the school.
  - (7) If the board decides to grant the application—
    - (a) the accreditation is subject to the condition; and
    - (b) the condition is taken to be an attribute of accreditation applying to the school.

**Division 2                      School is a non-State school under  
General Provisions Act and has  
applied for planning approval to  
change aspect of school, other than  
type of education**

**203      Existing application for planning approval**

- (1) This section applies if—
  - (a) immediately before the commencement, a school was a non-State school under the General Provisions Act; and

*Education (Accreditation of Non-State Schools) Act  
2001*

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- (b) an application was made, before the commencement, for a planning approval to significantly modify the school under the General Provisions Act relating to a change mentioned in paragraph (c), (d), (e), (f) or (g) of the definition *significantly modifying* in section 2(1) of that Act; and
  - (c) the application had not been decided before the commencement; and
  - (d) immediately before the commencement, the details of the planning approval had not been incorporated into the details of the school's non-State school status under the General Provisions Act.
- (2) The Minister must decide the application, under the General Provisions Act, as if this Act had not commenced.

**204 Application to change attribute of provisional accreditation**

- (1) This section applies if—
- (a) under section 203, the Minister issues a planning approval for the school under the General Provisions Act; and
  - (b) the school is provisionally accredited under section 180; and
  - (c) the school's governing body applies, under section 49, to change an attribute of provisional accreditation applying to the school, so that the attribute accords with the details of the planning approval; and
  - (d) the application is made within 6 months after the commencement.
- (2) For the application, the school is taken to be a school, the governing body of which is eligible for Government funding for the aspect of the school's operation mentioned in the details of the planning approval.
- (3) Sections 50, 54 and 55 do not apply to the application.

## **205 Application to change attribute of accreditation**

- (1) This section applies if—
  - (a) under section 203, the Minister issues a planning approval for the school under the General Provisions Act; and
  - (b) the school is accredited under section 179; and
  - (c) the school's governing body applies, under section 49 as applied by section 59, to change an attribute of accreditation applying to the school, so that the attribute accords with the details of the planning approval; and
  - (d) the application is made within 6 months after the commencement.
- (2) For the application, the school is taken to be a school, the governing body of which is eligible for Government funding for the aspect of the school's operation mentioned in the details of the planning approval.
- (3) Sections 50, 54 and 55, as applied by section 59, do not apply to the application.

## **Division 3 School is a non-State school under General Provisions Act and has applied for planning approval to change type of education**

### **206 Existing application for planning approval**

- (1) This section applies if—
  - (a) immediately before the commencement, a school was a non-State school under the General Provisions Act; and
  - (b) an application was made, before the commencement, for a planning approval to significantly modify the school under the General Provisions Act relating to a change mentioned in paragraph (a) or (b) of the definition *significantly modifying* in section 2(1) of that Act; and

- (c) the application had not been decided before the commencement; and
  - (d) immediately before the commencement, the details of the planning approval had not been incorporated into the details of the school's non-State school status under the General Provisions Act.
- (2) The Minister must decide the application, under the General Provisions Act, as if this Act had not commenced.

## **207 Application for accreditation**

- (1) This section applies if—
- (a) under section 206, the Minister issues a planning approval for the school under the General Provisions Act; and
  - (b) within 6 months after the commencement, the school's governing body applies for the accreditation of a school that accords with the details of the planning approval.
- (2) For the application, the school is taken to be a school, the governing body of which is eligible for Government funding for the school.
- (3) Sections 17 and 20 do not apply to the application.
- (4) Section 21(2) applies to the application as if the reference to 9 months were a reference to 6 months.

# **Part 8 Review of planning approval decisions**

## **Division 1 Preliminary**

### **208 Definition for pt 8**

In this part—

***planning approval decision***, relating to a school, means a decision of the Minister, made before the commencement, to refuse an application for planning approval for the school under the General Provisions Act.

## **Division 2                      School is not a non-State school under General Provisions Act**

### **209      Application for review**

- (1) This section applies if—
  - (a) immediately before the commencement, a school was not a non-State school, or school in receipt of subsidy, under the General Provisions Act; and
  - (b) an application was made to the Minister, before the commencement, under the planning guidelines under the General Provisions Act for the review of a planning approval decision relating to the school; and
  - (c) the application had not been decided before the commencement.
- (2) The application may be dealt with, or continue to be dealt with, under the General Provisions Act as if this Act had not commenced.

### **210      Application of provision**

- (1) Subsection (2) applies if, under section 209, the Minister issues a planning approval for the school under the General Provisions Act.
- (2) Section 202<sup>61</sup> applies as if the reference to section 201 were a reference to section 209.

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61      Section 202 (Application for accreditation)

### **Division 3**

### **School is a non-State school under General Provisions Act and obtains planning approval to change aspect of school, other than type of education**

#### **211 Application for review**

- (1) This section applies if—
  - (a) immediately before the commencement, a school was a non-State school under the General Provisions Act; and
  - (b) an application was made to the Minister, before the commencement, under the planning guidelines under the General Provisions Act for the review of a planning approval decision relating to the school; and
  - (c) the application had not been decided before the commencement; and
  - (d) the planning approval decision was about an application for a planning approval to significantly modify the school under the General Provisions Act relating to a change mentioned in paragraph (c), (d), (e), (f) or (g) of the definition *significantly modifying* in section 2(1) of that Act.
- (2) The application for review may be dealt with, or continue to be dealt with, under the General Provisions Act as if this Act had not commenced.

#### **212 Application of provisions**

If, under section 211, the Minister issues a planning approval for the school under the General Provisions Act, sections 197 and 198<sup>62</sup> apply to the school.

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62 Sections 197 (Application to change attribute of provisional accreditation) and 198 (Application to change attribute of accreditation)

**Division 4**                      **School is a non-State school under  
General Provisions Act and seeks  
planning approval to change type of  
education**

**213**      **Application for review**

- (1) This section applies if—
- (a) immediately before the commencement, a school was a non-State school under the General Provisions Act; and
  - (b) an application was made to the Minister, before the commencement, under the planning guidelines under the General Provisions Act for the review of a planning approval decision relating to the school; and
  - (c) the application had not been decided before the commencement; and
  - (d) the planning approval decision was about an application for a planning approval to significantly modify the school under the General Provisions Act relating to a change mentioned in paragraph (a) or (b) of the definition *significantly modifying* in section 2(1) of that Act.
- (2) The application for review may be dealt with, or continue to be dealt with, under the General Provisions Act as if this Act had not commenced.

**214**      **Application of provision**

If, under section 213, the Minister issues a planning approval for the school under the General Provisions Act, section 200<sup>63</sup> applies to the school.

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63 Section 200 (Application for accreditation)

## **Part 9**

# **Change of details of non-State school status of school under General Provisions Act**

### **215 Outstanding application**

- (1) This section applies if—
  - (a) an application was made, before the commencement, under guideline 1.4 of the guidelines mentioned in section 2(2) of the General Provisions Act for a change in the details of the non-State school status of a school; and
  - (b) the application had not been decided before the commencement.
- (2) The application may be dealt with, or continue to be dealt with, under the General Provisions Act as if this Act had not commenced.

### **216 Change in attributes of provisional accreditation**

- (1) This section applies if—
  - (a) the Minister decides to grant the application under section 215; and
  - (b) the school is provisionally accredited under section 180.
- (2) The attributes of provisional accreditation applying to the school, under section 180(4), are taken to be changed to accord with the decision.

### **217 Change in attributes of accreditation**

- (1) This section applies if—
  - (a) the Minister decides to grant the application under section 215; and
  - (b) the school is accredited under section 179.



- (2) The attributes of accreditation applying to the school, under section 179(4), are taken to be changed to accord with the decision.

## **Chapter 8      Other transitional provisions**

### **Part 1              Transitional provisions for Education (Miscellaneous Amendments) Act 2002**

#### **218      Definitions for ch 8, pt 1**

In this part—

*commencement* means commencement of this section.

*post-amended Act* means this Act as in force immediately after the commencement of the *Education (Miscellaneous Amendments) Act 2002*, section 8.

*pre-amended Act* means this Act as in force immediately before the commencement of the *Education (Miscellaneous Amendments) Act 2002*, section 8.

#### **219      Provisional accreditation for particular type of education**

- (1) This section applies to a school that, immediately before the commencement, is provisionally accredited for the type of education mentioned in section 12(1)(a) of the pre-amended Act.
- (2) The school is taken to be provisionally accredited for the types of education mentioned in section 12(1)(a) and (b) of the post-amended Act.
- (3) Also, for this Act the school's governing body is taken to have made application, under section 16, to the board for the

accreditation of the school for each type of education mentioned in section 12(1)(a) and (b) of the post-amended Act.

**220 Accreditation for particular type of education**

- (1) This section applies to a school that, immediately before the commencement, is accredited for the type of education mentioned in section 12(1)(a) of the pre-amended Act.
- (2) The school is taken to be accredited for the types of education mentioned in section 12(1)(a) and (b) of the post-amended Act.

**221 Application for accreditation for particular type of education**

- (1) This section applies to an application for the accreditation of a school for the type of education mentioned in section 12(1)(a) of the pre-amended Act if, immediately before the commencement, the application has not been decided under chapter 2, part 2, division 2, subdivision 2.<sup>64</sup>
- (2) For this Act, the application is taken to be a separate application for each type of education mentioned in section 12(1)(a) and (b) of the post-amended Act.

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<sup>64</sup> Chapter 2 (Accreditation of schools), part 2 (Accreditations), division 2 (Applications for accreditation), subdivision 2 (Provisional accreditation of schools)

## **Part 2**

# **Transitional provisions for Education (Accreditation of Non-State Schools) and Other Legislation Amendment Act 2005**

### **222 Definition for ch 8, pt 2**

In this part—

*commencement* means commencement of this section.

### **223 Certain applications not to be dealt with under pre-amended Act**

- (1) This section applies to—
  - (a) an application for Government funding for a school made on or after 15 November 2004 and before the commencement; or
  - (b) an application for the accreditation of a school made on or after 15 November 2004 and before the commencement; or
  - (c) an application under section 49,<sup>65</sup> or section 49, as applied by section 59, about a change in a school's governing body made on or after 15 November 2004 and before the commencement.
- (2) The application must be dealt with under this Act and not under the pre-amended Act.
- (3) Any right or expectation of a person to have an application considered or dealt with under the pre-amended Act is extinguished.
- (4) In this section—

*pre-amended Act* means this Act as in force immediately before the commencement.

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65 Section 49 (Application to change attribute of provisional accreditation)

## **224 Ineligible company**

- (1) This section applies if—
  - (a) a school's governing body was, immediately before the commencement, eligible for Government funding for the school; and
  - (b) the governing body was, immediately before the commencement, an ineligible company.
- (2) While the governing body is the ineligible company and, except for section 91A,<sup>66</sup> it continues to be eligible for Government funding for the school, that section and section 93(f)<sup>67</sup> do not apply to the governing body in relation to the school.

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<sup>66</sup> Section 91A (Restriction on type of corporation that may be eligible for Government funding for a school)

<sup>67</sup> Section 93 (Grounds for withdrawal)

## **Schedule 3      Dictionary**

### section 4

***accepted representations***—

- (a) for chapter 2, part 3, division 2A—see section 58B(2);  
or
- (b) for chapter 2, part 4, division 2—see section 65(2); or
- (c) for chapter 3, part 6, division 2—see section 95(2).

***accreditation***, of a school, means the accreditation of the school under section 27.

***accreditation criteria*** see section 9.

***accredited school*** means a school accredited by the board under section 27.

***AISQ*** means the Association of Independent Schools of Queensland Inc.

***assessor*** means a person who is appointed as an assessor under section 144.

***attributes of accreditation*** see section 27(3).

***attributes of provisional accreditation*** see section 18(2).

***auditor*** means a person who is appointed as an auditor under section 144.

***authorised person*** means an assessor or auditor.

***board*** means the Non-State Schools Accreditation Board.

***board office*** means the office from which the board operates.

***catchment area*** means—

- (a) for a school that is in operation—the geographical area in which at least 80% of the school's students reside; or
- (b) for a school that is not in operation—the geographical area in which at least 80% of the school's prospective students are likely to reside.

### Schedule 3 (continued)

**catchment area notice** see section 76(2)(a) and (4)(a).

**certificate of accreditation** means a certificate of accreditation issued under section 28(1)(a), 57(4) or 58E(3) as applied by section 59, 60(7), 179(5), 181(8) or 182(8).

**certificate of provisional accreditation** means a certificate of provisional accreditation issued under section 18(3), 34(3)(b), 47(3), 56(3), 57(4), 58E(3), 180(7), 183(10) or 184(10).

**chairperson** see section 109(1)(a).

**change**, in a school's governing body, means a change that results in the school having a different governing body.

**change day** see section 52(4)(b).

**change notice** see section 52(4).

**classroom education** means education in which the teacher providing the education and the students receiving the education are in each other's presence.

**commencement**—

- (a) for chapter 7—see section 178; or
- (b) for chapter 8, part 1—see section 218; or
- (c) for chapter 8, part 2—see section 222.

**commissioner** means the Commissioner for Children and Young People and Child Guardian.

**committee** means the Non-State Schools Eligibility for Government Funding Committee.

**committee member** means a member of the committee appointed under section 135.

**company** see the Corporations Act, section 9.

**company limited by guarantee** see the Corporations Act, section 9.

**compliance notice** see section 61(2).

### Schedule 3 (continued)

**convicted**, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

**criminal history**, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986* and does not include offences for which the rehabilitation period has expired, and not been revived, under that Act.

**deputy chairperson** means the deputy chairperson of the board appointed under section 112(1).

**director**, of a school's governing body, means—

- (a) if the governing body is a company under the Corporations Act—a person appointed as a director of the governing body; or
- (b) otherwise—a person who is, or is a member of, the executive or management entity, by whatever name called, of the governing body.

**distance education** see the *Education (General Provisions) Act 1989*, section 2(1).

**eligibility for Government funding criteria** see section 85(3) and (4).

**establishment phase school**, for a sector of schooling, means an accredited school—

- (a) that may, under its accreditation, provide education within the sector of schooling; and
- (b) that is yet to start to operate within the sector of schooling; and
- (c) the governing body of which is eligible for Government funding for the school.

**for-profit entity** means an entity that is carried on for profit or gain to its individual members.

**General Provisions Act**, for chapter 7, see section 178.

### Schedule 3 (continued)

***Government-funded school*** means a school, the governing body of which is eligible for Government funding for the school.

***Government funding***, for a school, means funding given by the State for any aspect of the operation of the school.

***indictable offence*** includes an indictable offence dealt with summarily.

***ineligible company*** means a company that is not a company limited by guarantee.

***information notice***, for a decision made by the board or Minister, is a notice stating each of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may have the decision reviewed within 28 days;
- (d) the way the person may have the decision reviewed;
- (e) if the decision is that a provisionally accredited school not be accredited—a direction that the person surrender the school's certificate of provisional accreditation within 14 days after the decision takes effect;
- (f) if the decision is that a school's provisional accreditation or accreditation be cancelled—a direction that the person surrender the certificate of provisional accreditation or accreditation within 14 days after the decision takes effect;
- (g) if the decision is that a school's provisional accreditation period be extended or reduced under section 46(1)(b)—a direction that the person surrender the certificate of provisional accreditation within 14 days after the decision takes effect.

***member*** means a member of the board appointed under section 109.



Schedule 3 (continued)

**Minister's consultation committee nominee** see section 135(1)(b).

**Minister's consultation nominees** see section 109(1)(b).

**non-State school** see section 6.

**notice** means written notice.

**not operated for profit**, in relation to a school, see section 7.

**original decision** see section 101.

**person with a disability** see the *Education (General Provisions) Act 1989*, section 3(1).

**planning approval decision**, for chapter 7, part 8, see section 208.

**positive notice** means a positive notice issued by the commissioner under the *Commission for Children and Young People and Child Guardian Act 2000*, section 102.

**post-amended Act**, for chapter 8, part 1, see section 218.

**pre-amended Act**, for chapter 8, part 1, see section 218.

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

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

**prohibited arrangement** see section 7A.

**properly made submission** see section 80(2).

**provisional accreditation**, of a school, means the provisional accreditation of the school under section 18.

**provisional accreditation period**, of a school, means the provisional accreditation period applying to the school under this Act.

**provisionally accredited school** means a school provisionally accredited by the board under section 18.

**QCEC** means the Queensland Catholic Education Commission.

### Schedule 3 (continued)

**register** means the register kept under section 164.

**relevant operational aspect** see section 50(1)(b).

**review**, of a decision, means review of the decision under chapter 4.

**school** see section 5.

**school survey data**, for a school, means the following—

- (a) the number of full-time students enrolled at the school, grouped according to the type of education offered at the school;
- (b) the number of part-time students enrolled at the school, grouped according to the type of education offered at the school;
- (c) the number of students enrolled for distance education at the school;
- (d) the number of full-time students enrolled at the school who are persons with a disability;
- (e) the number of part-time students enrolled at the school who are persons with a disability;
- (f) details of the sites from which the school operates;
- (g) other details, about the school, prescribed under a regulation.

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

**sector of schooling** means any of the following groups of years of schooling—

- (a) preschool to year 3;
- (b) years 4 to 7;
- (c) years 8 to 10;
- (d) years 11 and 12.

### Schedule 3 (continued)

**sector student-intake day**, of a school for a sector of schooling, means the first day of education of students at the school within the sector of schooling.

**show cause notice**—

- (a) for chapter 2, part 3, division 2A—see section 58A(2);  
or
- (b) for chapter 2, part 4, division 2—see section 64(2); or
- (c) for chapter 3, part 6, division 2—see section 94(2).

**show cause period**—

- (a) for chapter 2, part 3, division 2A—see section 58A(2)(d); or
- (b) for chapter 2, part 4, division 2—see section 64(2)(d); or
- (c) for chapter 3, part 6, division 2—see section 94(2)(d).

**special education** see the *Education (General Provisions) Act 1989*, section 3(2).<sup>68</sup>

**State school** see the *Education (General Provisions) Act 1989*, section 2(1).<sup>69</sup>

**student-intake day**, of a provisionally accredited school, means the first day of education of students under the school's provisional accreditation.

**submission period** see section 77(1)(h).

**type of education** means a type of education mentioned in section 12(1).

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

(2) **Special education** is the educational programs and services appropriate to the needs of persons with a disability.

69 *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). Accordingly, this reprint includes all amendments that commenced operation on or before 31 May 2005. Future amendments of the Education (Accreditation of Non-State Schools) Act 2001 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	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

### 4 Table of reprints

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

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

Reprint No.	Amendments to	Effective	Reprint date
1 rv	2002 Act No. 75	1 January 2002	1 January 2002

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Reprint No.	Amendments included	Effective	Notes
1A	2002 Act No. 75	13 December 2002	
1B	2002 Act No. 55	1 September 2003	
1C	2003 Act No. 62	1 January 2004	R1C withdrawn, see R2
	2003 Act No. 63		
	2003 Act No. 72		
2	—	1 January 2004	
2A	2004 Act No. 13	1 August 2004	
2B	2004 Act No. 53	29 November 2004	
2C	2004 Act No. 49	17 January 2005	
2D	2005 Act No. 29	31 May 2005	R2D withdrawn, see R3
3	—	31 May 2005	

## 5 List of legislation

### **Education (Accreditation of Non-State Schools) Act 2001 No. 60**

date of assent 21 September 2001

ss 1–2, 4, 132, 176, 219, ch 5 pts 1–2, schs 2–3 commenced on date of assent (see s 2(1))

remaining provisions commenced 1 January 2002 (see s 2(2))

amending legislation—

### **Child Care Act 2002 No. 55 ss 1–2, 196 sch 1**

date of assent 1 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 2003 (2003 SL No. 188)

### **Education (Miscellaneous Amendments) Act 2002 No. 75 pts 1, 3, s 74 sch**

date of assent 13 December 2002

ss 1–2 commenced on date of assent

ss 6, 28–33 commenced 1 January 2002 (see s 2)

remaining provisions commenced on date of assent

### **Youth Participation in Education and Training Act 2003 No. 62 ss 1, 2(2), pt 8 div 1**

date of assent 13 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2004 (2003 SL No. 278)

### **Training Reform Act 2003 No. 63 ss 1, 2(2), 60 sch**

date of assent 13 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2004 (2003 SL No. 293)

### **Grammar Schools and Other Legislation Amendment Act 2003 No. 72 ss 1, 2(2), pt 3**

date of assent 22 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2004 (2003 SL No. 322)

### **Child Safety Legislation Amendment Act 2004 No. 13 ss 1–2(1), 102 sch 2 pts 1–2**

date of assent 24 June 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 2004 (2004 SL No. 141)

### **Commission for Children and Young People and Child Guardian Amendment Act 2004 No. 49 ss 1–2, 53 sch**

date of assent 29 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 17 January 2005 (2004 SL No. 282)

### **Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004

commenced on date of assent

**Education (Accreditation of Non-State Schools) and Other Legislation Amendment  
Act 2005 No. 29 pts 1–2**

date of assent 31 May 2005

commenced on date of assent

## **6 List of annotations**

### **Objects of Act**

s 3 amd 2005 No. 29 s 3

### **Meaning of “non-State school”**

s 6 amd 2002 No. 55 s 196 sch 1; 2002 No. 75 s 7; 2003 No. 63 s 60 sch

### **Meaning of “prohibited arrangement”**

s 7A ins 2005 No. 29 s 4

## **CHAPTER 2—ACCREDITATION OF SCHOOLS**

### **PART 2—ACCREDITATIONS**

#### **Type of education**

s 12 amd 2002 No. 75 s 8

#### **Provisional accreditation, or accreditation, is for 1 type of education**

s 12A ins 2002 No. 75 s 9

#### **Application of Commission for Children and Young People and Child Guardian Act 2000**

prov hdg amd 2004 No. 13 s 102 sch 2 pt 1

s 15 amd 2004 No. 13 s 102 sch 2 pt 1

#### **If applicant seeks Government funding for the school**

s 17 amd 2005 No. 29 s 5

#### **Further information or documents**

s 17A ins 2005 No. 29 s 6

#### **Board not satisfied about particular matter**

s 17B ins 2005 No. 29 s 6

#### **Form of certificate of provisional accreditation**

s 23 amd 2002 No. 75 s 10

#### **Form of certificate of accreditation**

s 35 amd 2002 No. 75 s 11

### **Division 3—Additional assessment of certain schools**

#### **Subdivision 1—Assessment when school first starts to operate within a sector of schooling**

sdiv hdg ins 2002 No. 75 s 12

#### **Application of sdiv 1**

prov hdg amd 2002 No. 75 s 13(1)

s 36 amd 2002 No. 75 s 13(2)

**Subdivision 2—Assessment when school starts to operate within a sector of schooling at new site**

**sdiv 2 (ss 38A–38C)** ins 2002 No. 75 s 14

**Suitability of governing body**

**s 39** amd 2003 No. 62 s 93; 2004 No. 53 s 2 sch; 2005 No. 29 s 7

**Criminal history reports for investigation**

**s 41** amd 2005 No. 29 s 8

**Report by assessor**

**s 41A** ins 2005 No. 29 s 9

**Demonstration of compliance**

**s 42** amd 2002 No. 75 s 15

**PART 3—CHANGES IN PROVISIONAL ACCREDITATION PERIOD, ATTRIBUTES OF PROVISIONAL ACCREDITATION OR ATTRIBUTES OF ACCREDITATION**

**Division 2—Changes in attributes of provisional accreditation on application by school's governing body**

**div hdg** amd 2002 No. 75 s 16

**Decision of board**

**s 52** amd 2005 No. 29 s 10

**Deemed eligibility for Government funding**

**s 52A** ins 2005 No. 29 s 11

**Division 2A—Other changes in attributes of provisional accreditation**

**div 2A (ss 58A–58F)** ins 2002 No. 75 s 17

**Division 3—Changes in attributes of accreditation**

**Application of divs 2 and 2A**

**prov hdg** amd 2002 No. 75 s 18(1)

**s 59** amd 2002 No. 75 s 18(2)

**PART 4—CANCELLATION AND SURRENDER OF ACCREDITATIONS OR PROVISIONAL ACCREDITATIONS**

**pt hdg** amd 2002 No. 75 s 19

**Grounds for cancellation**

**s 63** amd 2002 No. 75 s 20

**Grounds for cancellation**

**s 70** amd 2002 No. 75 s 21

**Division 4—Surrender of accreditations or provisional accreditations**

**div hdg** ins 2002 No. 75 s 22

**Surrender**

**s 70A** ins 2002 No. 75 s 22

**Division 5—Grammar schools**

**div 5 (s 70B)** ins 2003 No. 72 s 27



**CHAPTER 3—GOVERNMENT FUNDING****Restrictions on application for Government funding for school**

**s 72**            amd 2005 No. 29 s 12

**PART 2—APPLICATIONS FOR GOVERNMENT FUNDING****Division 1—Application for accredited school**

**div hdg**        ins 2005 No. 29 s 13

**Application for Government funding for accredited school**

**s 73**            sub 2005 No. 29 s 13

**Further information or documents**

**s 73A**          ins 2005 No. 29 s 13

**Report by assessor**

**s 73B**          ins 2005 No. 29 s 13

**Board not satisfied about particular matter**

**s 73C**          ins 2005 No. 29 s 13

**Division 2—Application for school not yet in operation**

**div hdg**        ins 2005 No. 29 s 13

**Application of pt 3**

**s 75**            amd 2002 No. 75 s 74 sch

**Public notification**

**s 76**            amd 2002 No. 75 s 23

**Required content of catchment area notice**

**s 77**            amd 2002 No. 75 s 24

**Notice of compliance or noncompliance with notice requirements**

**s 78**            sub 2002 No. 75 s 25

**Substantial compliance with notice requirements may be accepted**

**s 84**            amd 2002 No. 75 s 26

**PART 5A—RESTRICTION ON TYPE OF CORPORATION**

**pt 5A (s 91A)** ins 2005 No. 29 s 14

**Grounds for withdrawal**

**s 93**            amd 2005 No. 29 s 15

**Report by assessor**

**s 98A**          ins 2005 No. 29 s 16

**Effect of change of particular attributes**

**s 99A**          ins 2002 No. 75 s 27

**Functions of board**

**s 106**          amd 2005 No. 29 s 17

**Application of Commission for Children and Young People and Child Guardian Act  
2000, pt 6**

**prov hdg**      amd 2004 No. 13 s 102 sch 2 pt 1

**s 140**          amd 2004 No. 13 s 102 sch 2 pt 1

**Functions of assessor**

s 141 sub 2005 No. 29 s 18

**Appointment conditions**

s 146 amd 2004 No. 13 s 102 sch 2 pt 1; 2004 No. 49 s 53 sch

**Purpose of div 4**

s 150 amd 2005 No. 29 s 19

**Disclosure of application for prescribed notice under Commission for Children and  
Young People and Child Guardian Act 2000**

prov hdg amd 2004 No. 13 s 102 sch 2 pt 1; 2004 No. 49 s 53 sch

s 168 amd 2004 No. 13 s 102 sch 2 pt 1; 2004 No. 49 s 53 sch

**CHAPTER 7—TRANSITIONAL PROVISIONS FOR ACT No. 60 OF 2001**

ch hdg amd 2002 No. 75 s 74 sch

**School in receipt of subsidy under General Provisions Act**

s 186 amd 2002 No. 75 s 28 (retro)

**Existing application for categorisation as a school in receipt of subsidy**

s 187 amd 2002 No. 75 s 29 (retro)

**Application of div 1**

s 194 sub 2002 No. 75 s 30 (retro)

**Application of div 2**

s 196 amd 2004 No. 53 s 2 sch

**Application to change attribute of provisional accreditation**

s 197 amd 2002 No. 75 s 31 (retro)

**Application to change attribute of accreditation**

s 198 amd 2002 No. 75 s 32 (retro)

**Application of div 3**

s 199 amd 2004 No. 53 s 2 sch

**Application for accreditation**

s 200 amd 2002 No. 75 s 33 (retro)

**Existing application for planning approval**

s 203 amd 2004 No. 53 s 2 sch

**Existing application for planning approval**

s 206 amd 2004 No. 53 s 2 sch

**Application for review**

s 211 amd 2004 No. 53 s 2 sch

**Application for review**

s 213 amd 2004 No. 53 s 2 sch

**CHAPTER 8—OTHER TRANSITIONAL PROVISIONS**

ch hdg prev ch 8 hdg om R1 (see RA s 7(1)(k))

pres ch 8 hdg ins 2002 No. 75 s 34

sub 2005 No. 29 s 20

*Education (Accreditation of Non-State Schools) Act  
2001*

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**PART 1—TRANSITIONAL PROVISIONS FOR EDUCATION  
(MISCELLANEOUS AMENDMENTS) ACT 2002**

**pt hdg** ins 2005 No. 29 s 20

**Definitions for ch 8, pt 1**

**prov hdg** amd 2005 No. 29 s 21(1)

**s 218** prev s 218 om R1 (see RA s 40)  
pres s 218 ins 2002 No. 75 s 34  
amd 2005 No. 29 s 21(2)

**Provisional accreditation for particular type of education**

**s 219** prev s 219 om R1 (see RA s 40)  
pres s 219 ins 2002 No. 75 s 34

**Accreditation for particular type of education**

**s 220** ins 2002 No. 75 s 34

**Application for accreditation for particular type of education**

**s 221** ins 2002 No. 75 s 34

**PART 2—TRANSITIONAL PROVISIONS FOR EDUCATION  
(ACCREDITATION OF NON-STATE SCHOOLS) AND OTHER  
LEGISLATION AMENDMENT ACT 2005**

**pt 2 (ss 222–224)** ins 2005 No. 29 s 22

**SCHEDULE 1—CONSEQUENTIAL AMENDMENTS OF ACTS**

om R1 (see RA s 40)

**SCHEDULE 2—OTHER AMENDMENTS OF ACTS**

om R1 (see RA s 40)

**SCHEDULE 3—DICTIONARY**

def “**accepted representations**” sub 2002 No. 75 s 74 sch  
def “**certificate of accreditation**” amd 2002 No. 75 s 74 sch  
def “**certificate of provisional accreditation**” amd 2002 No. 75 s 74 sch  
def “**commencement**” sub 2005 No. 29 s 23  
def “**commissioner**” amd 2004 No. 13 s 102 sch 2 pt 2  
def “**company**” ins 2005 No. 29 s 23(2)  
def “**company limited by guarantee**” ins 2005 No. 29 s 23(2)  
def “**distance education**” amd 2002 No. 75 s 74 sch  
def “**for-profit entity**” ins 2005 No. 29 s 23(2)  
def “**indictable offence**” ins 2002 No. 75 s 74 sch  
def “**ineligible company**” ins 2005 No. 29 s 23(2)  
def “**person with a disability**” amd 2002 No. 75 s 74 sch  
def “**positive notice**” amd 2004 No. 13 s 102 sch 2 pt 1  
def “**post-amended Act**” ins 2005 No. 29 s 23(2)  
def “**pre-amended Act**” ins 2005 No. 29 s 23(2)  
def “**preschool education**” amd 2002 No. 75 s 74 sch  
def “**primary education**” amd 2002 No. 75 s 74 sch  
def “**prohibited arrangement**” ins 2005 No. 29 s 23(2)  
def “**secondary education**” amd 2002 No. 75 s 74 sch  
def “**show cause notice**” sub 2002 No. 75 s 74 sch

def “**show cause period**” sub 2002 No. 75 s 74 sch  
 def “**special education**” amd 2002 No. 75 s 74 sch  
 def “**State school**” amd 2002 No. 75 s 74 sch  
 def “**type of education**” ins 2002 No. 75 s 74 sch

## 7 Table of corrected minor errors

under the Reprints Act 1992 s 44

Provision	Description
193(4)(b)	om ‘section’ ins ‘sections’

## 8 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in footnotes to the text.