



Grammar Schools Act 1975

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Also see endnotes for information about—

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Queensland

Grammar Schools Act 1975

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Grammar Schools Act 1975

[as amended by all amendments that commenced on or before 1 December 2009]

An Act to consolidate and amend the law relating to grammar schools and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Grammar Schools Act 1975*.

2 Definitions

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

4 Act binds all persons

- (1) This Act binds all persons including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Subsection (1) does not make the State, the Commonwealth or another State liable to be prosecuted for an offence.

5 Purpose and explanation

- (1) The purpose of this Act is to maintain public confidence in grammar schools.
- (2) To achieve the purpose, this Act regulates the establishment and governance of grammar schools.

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- (3) The matters mentioned in subsection (2) are also regulated under other legislation including, in particular, the accreditation Act.

Note—

A grammar school is a non-State school under the accreditation Act.

Part 1A Establishment of grammar schools

6 Establishment generally

- (1) A grammar school may be established—
- (a) with the Minister's approval under section 6A; or
 - (b) on the Minister's initiative under section 6B.
- (2) An existing non-grammar school may be established as a grammar school under this part.
- (3) A school established under this part is not a grammar school unless or until its name is included in a regulation under section 49.

6A Establishment with Minister's approval

- (1) An entity may apply to the Minister for approval to establish a grammar school.
- (2) The application must include details of the proposed school.
- (3) The Minister may ask the applicant for further information or documents the Minister reasonably requires to decide whether to give the approval.
- (4) The Minister may give the approval only if satisfied—
- (a) there is a demonstrated need for a grammar school in the proposed location; and

- (b) there is enough community support for a grammar school in the proposed location; and
- (c) the approval would be appropriate, having regard to the likely financial implications for the State of the proposed school's establishment and ongoing operation; and
- (d) the proposed school will not require financial support from the State for its establishment or ongoing operation in excess of that given to other grammar schools at comparable stages of development; and
- (e) establishment of the school is compatible with announced government policy about education; and
- (f) the persons proposing to establish the school have a sufficient understanding of the way the governance of a grammar school is regulated by this Act, the *Financial Accountability Act 2009* and other laws.

Note—

Under paragraphs (a) and (b), the Minister must be satisfied of the need and support for a grammar school as opposed to another type of non-State school.

6B Establishment on Minister's initiative

- (1) The Minister may establish a grammar school.
- (2) The Minister must first publish a notice in a newspaper circulating in the area in which it is proposed the school will be located and in a newspaper circulating generally in the State—
 - (a) stating the details of the proposal to establish the school; and
 - (b) inviting submissions from the public about the proposal; and
 - (c) stating the day, not earlier than 28 days after the day of publication, by which submissions must be given to the Minister.

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- (3) The Minister must also give to each grammar school a notice—
 - (a) stating the details of the proposal to establish the school; and
 - (b) inviting submissions from the school about the proposal; and
 - (c) stating the day, not earlier than 28 days after the day the notice is given to the school, by which submissions must be given to the Minister.
- (4) The Minister must not establish the school unless the Minister is satisfied about the matters stated in section 6A(4)(a) to (e).
- (5) The Minister must consider each submission given to the Minister by the due day stated in the relevant notice, so far as the submission is relevant to a matter stated in section 6A(4)(a) to (e).

Part 2 Board of trustees

7 Constitution

- (1) For every grammar school there shall be established and thereafter constituted a board of trustees to be called ‘Board of Trustees of the (*name of locality*) Grammar School’.
- (1A) A board may be constituted for a school notwithstanding that, at the date of the board’s constitution, the school has not been established.
- (2) A board shall, by the name assigned to it, be a body corporate with perpetual succession and a common seal and, subject to this Act, shall be capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts and sums of money due to it and of acquiring, holding, demising, letting and alienating property

and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

- (3) All courts and persons acting judicially shall take judicial notice of the common seal of a board and, until the contrary is proved, shall presume that it was duly affixed to any document on which it appears.
- (4) A board shall consist of 7 members appointed by the Governor in Council by notification published in the gazette of whom—
 - (a) 4 shall be persons nominated by the Minister;
 - (b) 3 shall be persons elected as prescribed.
- (4A) Subsection (4) applies subject to sections 8 and 11.
- (4B) If a board is constituted, the Minister must consult with the board before nominating a person for appointment to the board under subsection (4)(a).
- (4C) The Minister must not nominate a person for appointment to the board under subsection (4)(a) unless the Minister is satisfied the person has a sufficient understanding, or the ability to rapidly acquire a sufficient understanding, of the way the governance of a grammar school is regulated by this Act, the *Financial Accountability Act 2009* and other laws.
- (4D) A person is eligible for election under subsection (4)(b), or to vote in an election under subsection (4)(b), only if the person has donated or subscribed to the school at least the electoral eligibility amount.
- (5) At its first meeting after each appointment of the total number of its members, a board shall elect from amongst its members—
 - (a) a chairperson; and
 - (b) a deputy chairperson, who shall be a member other than the chairperson.
- (5A) The chairperson shall be the executive member of the board.
- (5B) The chairperson and deputy chairperson shall hold their respective offices during their terms of office as members.

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- (6) When a vacancy occurs in the office of chairperson or deputy chairperson the board shall elect as prescribed another member to the vacant office.
- (7) A person appointed to fill a vacancy in the office of a member who was chairperson or deputy chairperson shall not by reason only of the person's appointment be chairperson or, as the case may be, deputy chairperson.

8 First appointment of board

- (1) This section applies if—
 - (a) approval is given under section 6A for the establishment of a grammar school; or
 - (b) the Minister decides under section 6B to establish a grammar school.
- (2) The following apply to the first appointment of a board for the school under section 7—
 - (a) despite section 7(4)(a) and (b), all of the appointees are to be nominated by the Minister;
 - (b) the Minister's nomination must identify 3 of the persons (the *deemed elected persons*) as being nominated for appointment only until the process can be completed under this section for appointing persons after an election;
 - (c) the notification under section 7(4) must state which of the appointees are the deemed elected persons.
- (3) The board must conduct an election, in the prescribed way, for 3 persons to be appointed to the board (the *first election*).
- (4) The first election must be conducted no earlier than 6 months, and no later than 9 months, after the first appointment of the board.
- (5) The deemed elected persons hold office as members only until the appointment under section 7(4) of the persons elected at the first election.

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- (6) The persons appointed to the board after election at the first election hold office for the remainder of a term of 4 years starting on the first appointment of the board.
 - (7) A person is not ineligible for election at the first election only because the person is a deemed elected person.

9 Disqualification from membership of a board

- (1) A person can not become, or continue as, a member of a board if the person—
 - (a) is, or has been, convicted of an indictable offence; or
 - (b) is an insolvent under administration.
- (2) However, if the Minister considers it would be reasonable, having regard to the circumstances of the indictable offence of which a person has been convicted or the circumstances because of which a person is an insolvent under administration, the Minister may—
 - (a) if the person was a member of a board when the person was convicted or became an insolvent under administration—give notice to the chairperson of the board and the person that the person is restored as a member, and may be later reappointed, despite the conviction or being an insolvent under administration; or
 - (b) otherwise—give written approval for the person to become a member of a board despite the conviction or being an insolvent under administration.
- (3) On the day the chairperson receives a notice under subsection (2)(a)—
 - (a) the person is restored as a member of the board; and
 - (b) if another person has been appointed to fill the vacancy, the other person's appointment ends.
- (4) Subsection (3) does not apply if the person's term of office has since ended.

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- (5) If a person is restored as a member under subsection (3), 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 or become an insolvent under administration.
- (6) In this section—
- indictable offence* includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659, applies to the indictable offence.
- insolvent under administration* has the same meaning as in the Corporations Act, section 9.

10 Tenure of office

- (1) A member of a board shall be appointed for a term of 4 years but, if by the expiration of that term the member's successor has not been duly appointed, the member shall, subject to this Act, hold office until his or her successor is duly appointed.
- (2) A person is ineligible for appointment as a member under section 7(4)(b) (an *elected member*) if the person has already served as an elected member for the prescribed maximum number of terms.
- (3) However, an elected member may continue to hold office under subsection (1) until the member's successor is appointed even if the member has already served as an elected member for the prescribed maximum number of terms.
- (4) A member of a board shall, if the member is otherwise qualified, be eligible for reappointment as a member.
- (5) The Governor in Council may at any time remove a member of a board from office as a member by notification published in the gazette.
- (6) The office of a member of a board shall become vacant if the member—
- (a) dies;
 - (b) declines to act or to act further as a member;
 - (c) resigns office by signed notice furnished to the Minister;

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- (d) is absent without prior leave granted by the board from 3 consecutive meetings of the board of which due notice has been given to the member;
 - (e) ceases to be qualified to be a member;
 - (f) is a person who, under section 9, can not continue as a member; or
 - (g) is removed from office as a member by the Governor in Council.
- (7) A member's resignation takes effect when the notice under subsection (6)(c) is given to the Minister or, if a later time is stated in the notice, at the later time.
- (8) Attendance of a member of a board at the time and place appointed for an ordinary meeting of that board shall be deemed to constitute presence at a meeting notwithstanding that by reason that a quorum is not present no meeting is then and there actually held and the secretary to that board shall enter in the minute book the names of all members who so attend.

11 Casual vacancies

- (1) This section applies to the appointment of a person under section 7 to fill a casual vacancy in the office of a member of a board.
- (1B) Despite section 7(4)(b), in the case of an elected member, such a casual vacancy shall be filled by the appointment of a person recommended by the Minister from a panel submitted by the board comprising those persons who have donated or subscribed to the school in respect of which the board concerned is constituted at least the electoral eligibility amount for the board.
- (2) A person appointed to fill a casual vacancy in the membership of a board shall be appointed for the balance of the term for which the person's predecessor was appointed and shall, if otherwise qualified, be eligible for reappointment as a member of that board.

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12 Failure to elect

If within the time prescribed for the election of members of a board, no election is held or a sufficient number of members of a board is not elected, the Governor in Council may appoint as prescribed a qualified person or a sufficient number of qualified persons to be a member or members of the board concerned, to fill the vacancy or vacancies that ought to be filled at the election, and the person or persons so appointed shall be deemed to have been duly elected at an election.

13 Appointment of a substitute member

- (1) If any member of a board is likely to be absent from meetings of that board for any period, the Governor in Council may, by notification published in the gazette, appoint a person who is not a member of that board to act as a member during the absence of that member.
- (2) A person appointed under this section to act in the stead of an absent member need not be nominated or elected as prescribed.

14 Functions

The functions of a board are—

- (a) to supervise, maintain and control the conduct of the school for which the board is constituted;
- (b) to erect, alter, add to, purchase or sell buildings used or to be used for or in connection with that school;
- (c) to effect general improvements to the premises used or to be used for or in connection with that school;
- (d) to provide in that school courses of instruction;
- (e) to make rules with respect to—
 - (i) fees and charges to be paid in relation to students enrolled or to be enrolled at the school; and
 - (ii) the management and control of the school; and

- (iii) the discipline and conduct of students enrolled at the school.

Part 3 Business of board

Division 1 General powers

15 Powers and functions generally

A board shall have and may exercise and perform such powers and functions as are conferred or imposed upon it by or under this Act.

15A By-law making power

- (1) A board may make by-laws about elections under this Act, including by-laws about—
 - (a) an electoral eligibility amount for the board; and
 - (b) when an election is held; and
 - (c) a maximum number of terms for which a person may be elected under section 7(4)(b).
- (2) A by-law made under subsection (1)(a) may provide for an amount that is an electoral eligibility amount in relation to all elections or a specified election.
- (3) A by-law has effect only if it is consistent with this Act, including a regulation in force under this Act.
- (4) Without limiting subsection (3), a provision of a by-law mentioned in subsection (1)(a) is of no effect unless it complies with a regulation about the minimum or maximum amount that may be set as an electoral eligibility amount for the board.
- (5) A by-law is not subordinate legislation.

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16 Power to establish trust funds and to accept gifts and the like subject to conditions

- (1) A board may establish and administer trust funds for any purpose in connection with the exercise and performance of its powers and functions.
- (2) A board may agree to and carry out conditions to which a gift, grant, bequest, devise, purchase, lease or other means whereby a board acquires or holds property is subject.

17 Power to establish investment common funds

- (1) A board may establish investment common funds for the collective investment of moneys of the school in respect of which the board is constituted, trust moneys and other moneys held by or in the custody of that school.
- (2) A board may, from time to time without liability for breach of trust, bring into or withdraw from an investment common fund established by it the whole or any part of moneys of the school in respect of which the board is constituted or trust moneys or other moneys held by or in the custody of that school.
- (3) Subject to subsections (4) and (5), a board shall distribute periodically the income of each investment common fund amongst those funds participating in the common fund, having regard to the extent of the participation of those funds in the common fund during the relevant accounting period.
- (4) In a case where a board has brought into an investment common fund sums of money that, having been received by it to be expended for a stated purpose, will not for any cause be expended for that purpose forthwith, the board may pay into its general fund the whole or any part of that portion of the income of such investment common fund that is attributable to the participation of those sums of money in that common fund and that is not required for that stated purpose.
- (5) A board may if it considers it proper so to do, from time to time, add a portion of the income of an investment common fund to the capital thereof or use another portion of that

income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

18 Appointment of employees

- (1) A board—
 - (a) shall appoint and at all times have a secretary; and
 - (b) shall appoint a secretary when and as often as a vacancy occurs in that office; and
 - (c) may appoint and employ such administrative officers, teachers, clerks and other employees as it considers necessary for the proper exercise and performance of its powers and functions.
- (2) A board may enter into, perform and discharge any agreement with respect to the payment of salary, wages, expenses or other moneys to be paid to or in respect of any person who performs functions on behalf of the board for the purposes of this Act.

19 Superannuation scheme

- (1) A board may—
 - (a) establish or amend superannuation schemes; or
 - (b) join in establishing or amending superannuation schemes; or
 - (c) take part in superannuation schemes.
- (2) The auditor-general may audit the schemes.
- (3) Subsection (2) is subject to the *Auditor-General Act 2009*.

Division 2 Power to enter into financial arrangements

20 Boards are statutory bodies

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

21 Procedure before borrowing

Before proceeding to borrow money under the *Statutory Bodies Financial Arrangements Act 1982*, a board must cause the following to be prepared—

- (a) plans and specifications of the projects or full details of other undertakings for which the money to be borrowed is required;
- (b) an estimate of the cost of those projects or other undertakings;
- (c) a statement showing details of the proposed expenditure of the money to be borrowed.

29 Illegal borrowing

- (2) If a board borrows money that it is not authorised under this Act and the *Statutory Bodies Financial Arrangements Act 1982* to borrow, the members of the board who have consented to the borrowing of that money shall be jointly and severally liable to repay it and to pay interest thereon to the person from whom it was borrowed and that money and interest may be recovered from those members or any of them as money lent by that person to those members or, as the case may be, that member by action in any court of competent jurisdiction.

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- (3) If moneys are appropriated from any fund kept under this Act for the purpose of repaying money so borrowed or paying interest thereon, the members of the board who have consented to the appropriation of those moneys for that purpose shall be jointly and severally liable to refund them with interest thereon at a rate determined by the Treasurer in respect of that appropriation and those moneys and interest may be recovered from those members or any of them by action in any court of competent jurisdiction at the suit of the Treasurer.
 - (4) In an action brought under subsection (3), the Treasurer—
 - (a) is entitled to costs as between solicitor and client; and
 - (b) must pay the amounts recovered under the action into the fund concerned.

Division 3 Funds, accounts and budget

33 Funds

- (1) A board shall establish and at all times keep the following funds—
 - (a) a general fund;
 - (b) a trust fund;
 - (c) a loan fund;
 - (d) such other funds as are prescribed.
- (1A) The funds shall be separate and distinct and separate accounts at a financial institution shall be kept for each fund.
- (2) There shall be paid into a board's general fund all moneys paid to the board other than moneys prescribed to be paid into the trust fund, loan fund or other prescribed fund.
- (2A) The board shall apply the moneys from time to time standing to the credit of its general fund towards the costs incurred by it in or in connection with the proper exercise and performance of its powers and functions and in fulfilling any prescribed

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purpose for which any other prescribed fund is not appropriated by this Act.

- (3) A board's trust fund shall consist of all moneys paid to the board by way of deposit or in trust for any person or for any purpose under this Act or any other Act.
- (3A) The board shall apply the moneys standing to the credit of its trust fund to the payment to or on behalf of the persons entitled thereto or, where moneys are held on deposit or in trust for any purpose, to the payment to or for that purpose.
- (4) A board's loan fund shall consist of all moneys paid to the board by way of loan or subsidy for the purposes of this Act.
- (5) The board shall apply the moneys standing to the credit of its loan fund to expenditure necessarily incurred by it in carrying out the works or purposes for which the loans were authorised or the subsidies paid.

34 Accounts and audit

- (1) A board shall keep accurately such accounts, books and records of its receipts and expenditure as shall record and explain correctly all transactions.
- (2) The auditor-general or a person authorised by the auditor-general shall at least once in each year audit the accounts and records of financial transactions of a board and the cost of this audit shall be met by the board.
- (3) A board shall, as soon as practicable after the close of each financial year, furnish to the Minister a statement of account for that year in respect of each fund kept by it in such form and containing such particulars as the Minister, on the recommendation of the auditor-general, directs.
- (3A) Prior to such furnishing the auditor-general shall certify whether or not the statements of accounts—
 - (a) are in agreement with the books and accounts kept by the board; and

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- (b) in the auditor-general's opinion fairly set out the financial transactions of the board for the period to which they relate.
- (4) The auditor-general shall, at least once in each year, report to a board the results of the audit carried out under subsection (2) and shall, if the auditor-general thinks fit, make recommendations to the board with respect to the conduct of the financial transactions of the board and the manner of operating and maintaining its accounts.
- (4A) A copy of any report and recommendations made pursuant to subsection (4) shall be furnished by the auditor-general to the Minister.
- (5) A board shall give due consideration to the report and recommendations (if any) of the auditor-general made pursuant to subsection (4).
- (6) The auditor-general or person authorised by the auditor-general shall have the right of access at all reasonable times to the accounts, books and records of a board and may direct any employee of the board to make available copies of or extracts from those accounts, books and records or to supply such information and explanations as the auditor-general thinks fit for the purpose of the audit and every employee shall comply with a direction so given.
- (7) The auditor-general shall include in the auditor-general's annual report to Parliament such matters with respect to the financial transactions of a board as the auditor-general thinks fit.

35 Budget

- (1) Before 28 January in each year, a board shall approve and adopt a budget in respect of its general fund wherein the board shall estimate as accurately as possible—
- (a) the amount to be disbursed by the board from that fund during the year ending on 31 December next following in the proper exercise by the board of its functions under this Act;

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- (b) the amount to be received by the board during the year ending on 31 December next following from all sources other than amounts that are required by this Act to be paid into the trust fund, loan fund or other prescribed fund (not being the general fund).
- (2) The form of budget of a board shall consist of 2 parts—
 - (a) the administration of the school in respect of which the board is constituted; and
 - (b) annual charges in respect of interest on and redemption of loans.
- (2A) The estimated receipts and disbursements of a board, so far as is practicable—
 - (a) shall be grouped in relation to the respective functions of the board; and
 - (b) shall be itemised so as to specify the source from which each item of receipt is expected to arise or, as the case may be, the purpose for which each item of disbursement is expected to be incurred.
- (2B) Any estimated receipt and estimated disbursement that are in respect of the same purpose shall, as nearly as is practicable, be set out opposite each other in the budget.
- (3) A board shall, before 28 January in each year, review moneys available to the school in respect of which the board is constituted by way of bequest, donation or special grant and the disbursement thereof and shall, subject to the terms of any trust and before any disbursement is made, approve the proposed disposition of those moneys.

36 Observance of budget

- (1) A budget approved and adopted by a board shall be binding on the board and, subject to this section, the board shall control the expenditure of the school in respect of which it was established so that it conforms as nearly as practicable to the adopted budget.

-
- (2) If during any financial year it appears to a board that an extraordinary circumstance has arisen requiring the board to make in that financial year a disbursement from its general fund—
- (a) that was not provided for in the budget for that financial year; or
 - (b) that exceeds the amount estimated in respect of that disbursement in the budget for that financial year;
- the board shall, before making such disbursement, by resolution approve that such disbursement be made.

Division 4 Proceedings

38 Conduct of business

Subject to this Act, a board shall conduct its business and proceedings at meetings in such manner as it determines from time to time.

39 Quorum

- (1) The quorum of a board shall consist of a majority of the total number of members for the time being holding office as members.
- (2) A duly convened meeting of a board at which a quorum is present shall be competent to transact any business of the board and shall have and may exercise all the powers and functions by this Act conferred or imposed upon the board.

40 Meetings

- (1) A board shall meet at such times and places as it determines.
- (2) Notice of every meeting or adjourned meeting, save a meeting adjourned to a later hour of the same day on which it was appointed to be held, shall be in writing and shall be given to

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every member of a board at least 7 days prior to the date appointed for that meeting.

- (2A) Where circumstances exist that, in the opinion of the chairperson or 2 members of a board, constitute an emergency, the chairperson or, as the case may be, 2 members may call a meeting of the board and that meeting may be held without notice having been given as prescribed.
- (2B) A notice of a meeting or an adjourned meeting may be given to a member by prepaid post letter addressed to the member's place of business or residence last known to the chairperson.
- (3) The members present at a meeting of a board may from time to time adjourn the meeting.
- (3A) If a quorum is not present at a meeting of a board within 15 minutes after the time appointed for the commencement of the meeting, the member or members present or the majority of them if more than 2 are present or the secretary to the board if no member is present or if the members present are equally divided on the issue may adjourn the meeting to a time and date not later than 7 days from the date of the adjournment.
- (3B) The provisions of subsection (3A) shall be construed so as not to prevent the adjournment of a meeting to a later hour of the same day on which the meeting was appointed to be held.
- (4) The chairperson shall preside at each meeting of a board at which the chairperson is present and in the chairperson's absence the deputy chairperson if present shall preside.
- (5) If both the chairperson and deputy chairperson are absent from a meeting, a member of the board elected at that meeting shall preside.
- (6) A member of the board elected to preside at a meeting shall, while the member presides, have all the powers, functions and immunities of the chairperson.

41 Conduct of affairs

- (1) A board shall exercise or perform a power or function by a majority vote of its members present at the meeting and voting on the business in question.
- (2) A member of a board who, being present at a meeting and eligible to vote, abstains from voting shall be taken to have voted for the negative.
- (3) The chairperson shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

42 Custody of seal

- (1) The common seal of a board shall be kept in the custody of the secretary to the board or, where there is a temporary vacancy in that position, of the chairperson.
- (2) The common seal shall be affixed to a document only in pursuance of a resolution of the board and by the person having custody of such seal in accordance with this Act.
- (3) Where that person is the secretary to the board, the common seal shall be affixed in the presence of the chairperson.

43 Authentication of documents

Save where it is by this Act otherwise prescribed, a document made or issued by a board for the purposes of this Act shall be sufficiently authenticated if it is made or, as the case may be, signed by the chairperson or by the secretary to the board at the chairperson's direction.

44 Register of donors and subscribers

- (1) A board shall cause to be established and kept by the secretary to the board in such form as it thinks fit a register of the names and other prescribed particulars of persons who are or have been donors or subscribers to the school in respect of which the board is constituted.

[s 45]

- (1A) However, a person who no longer wishes to be a donor or subscriber may ask the board in writing to remove the person's name and other particulars of the person from the register.
- (2) The secretary to the board must, at the direction of the board—
- (a) amend details of a person's name or other particulars on the register; or
 - (b) remove from the register the name and other particulars of—
 - (i) a person mentioned in subsection (1A); or
 - (ii) a person who has died; or
 - (c) make any other alterations or amendments to the register required by the board.
- (3) The register shall at all reasonable times be open to inspection by any person at the office of the secretary.
- (4) The register may indicate which of the persons are eligible persons.
- (5) If the register does not indicate which of the persons are eligible persons—
- (a) the board must also keep a register of eligible persons; and
 - (b) subsections (1) to (3) apply to the register of eligible persons as if a reference in those subsections to donors or subscribers were a reference to eligible persons.
- (6) In this section—
- eligible person* means a person who has donated or subscribed at least the electoral eligibility amount for the board.

45 Validity of proceedings

An act or proceeding of a board shall not be invalidated or in any way prejudiced by reason only of the fact—

- (a) that at the time such act was done or proceeding taken there were vacancies in the membership of the board not exceeding one-half of the total number of members for the time being required to constitute the board;
- (b) that all members of the board for the time being holding office were not present at the meeting at which the act was done or proceeding taken;
- (c) that there is a defect in the qualification, membership or appointment or election of any member of the board who joined in doing the act or taking the proceeding or in authorising the act or proceeding.

Division 5 Interaction with the Minister

46A Board must notify the Minister about matters of concern

A board must give a written notice to the Minister immediately after becoming aware of a matter that raises a significant concern about the school's financial viability.

Examples of matters that may raise a significant concern about the school's financial viability—

- a proceeding started against the school that may result in payment of a significant amount of damages or legal costs
- a significant decrease in enrolments at the school

46B Minister may require information or documents

- (1) The Minister may give to a board a written notice requiring the board, within a stated reasonable time and in a stated reasonable way, to—
 - (a) give to the Minister relevant information in the board's knowledge about a stated matter; or
 - (b) give to the Minister, or make available for inspection by the Minister, a relevant document about a stated matter in the board's possession or control.

[s 46C]

- (2) The board must comply with the requirement.
- (3) If a document is given to the Minister, the Minister may keep the document to copy it and must return the document to the board as soon as practicable after copying it.
- (4) The Minister may disclose the information, or give the document or a copy of the document, to an entity the Minister considers appropriate in order to help the Minister to assess—
 - (a) the school's financial viability; or
 - (b) the way amounts provided to the board by the State are being used; or
 - (c) another matter relevant to the way the board is carrying out its functions.
- (5) Unless the Minister is satisfied there are exceptional circumstances, the Minister must consult with a board, about the information or documents that may be sought by the Minister, before giving the board a notice under this section.
- (6) In this section—

relevant, in relation to information or a document, means relating to the board's powers or functions under this Act.

46C Minister may give a direction

- (1) The Minister may give to a board a written direction about a matter relevant to its functions if the Minister is satisfied it is necessary to give the direction in the interests of the school to ensure the school's financial viability.

Example of a direction—

The Minister directs a board to engage an external person to provide expert advice to the board about stated matters that may affect the school's financial viability.

- (2) The board must comply with the direction.
- (3) The board must include a copy of each direction given to it during a financial year in its annual report for the year under the *Financial Accountability Act 2009*.

-
- (4) Unless the Minister is satisfied there are exceptional circumstances, the Minister must advise a board that the Minister proposes to give the board a direction, and consult with the board about the matters proposed to be dealt with in the direction, before giving the direction.

Part 3A Appointment of an administrator

Division 1 Appointment

46D Appointment

The Minister may, by gazette notice, appoint a person as administrator of a board.

46E Basis for appointment

The Minister may make the appointment only if—

- (a) the board asks the Minister to make the appointment; or
- (b) the board is given a show cause notice under the accreditation Act, section 64; or
- (c) the Minister reasonably believes the school is no longer financially viable or is in danger of becoming financially non-viable.

46F Notice of proposed appointment

- (1) Before making the appointment, the Minister—
 - (a) must give the board a written notice stating—
 - (i) that the Minister proposes to appoint a person as administrator of the board; and

[s 46G]

- (ii) the reasons for the proposed appointment; and
 - (iii) that the board may, within a stated time of at least 14 days, give the Minister a written response to the proposed appointment; and
 - (b) must consider any written response received from the board within the time stated in the notice.
- (2) However—
- (a) if the Minister is satisfied there are exceptional circumstances, the Minister may state a time under subsection (1)(a)(iii) that is less than 14 days; and
 - (b) with the board's written agreement, the Minister may state a time under subsection (1)(a)(iii) that is less than 14 days or make the appointment before the end of the stated time; and
 - (c) subsection (1) does not apply if the board has asked the Minister to make the appointment.
- (3) If, after giving a notice under subsection (1), the Minister decides not to make the appointment, the Minister must give the board a written notice of the decision.
- (4) If the Minister decides to make the appointment, the Minister must give the board a written notice of the decision before publishing the gazette notice under which the appointment is made.

46G Suitability of proposed appointee

- (1) The Minister may make the appointment only if the Minister is satisfied the proposed appointee has the appropriate qualifications and experience, and is otherwise suitable, to be the administrator.
- (2) A person who has agreed to a proposed appointment must advise the Minister, before the appointment is made, whether the person is aware of a conflict of interest that may arise in the course of the person acting as administrator.

-
- (3) A person must not state anything to the Minister under subsection (2) that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (4) Only an adult may be appointed as administrator.
- (5) The *Commission for Children and Young People and Child Guardian Act 2000*, part 6, applies to the appointment as if it were employment by the Minister in regulated employment.

46H Terms of appointment

- (1) The gazette notice under which the appointment is made must state the following matters—
- (a) the appointee's name;
 - (b) the school for which the board is constituted;
 - (c) the day the appointment takes effect;
 - (d) the term of the appointment;
 - (e) any conditions of the appointment.
- (2) The gazette notice may also state anything else about the appointment that the Minister considers appropriate.

46I Notice to parents about appointment

After giving notice to the board under section 46F(4), and before publishing the gazette notice under which the appointment is made, the Minister must take reasonable steps to notify the parents of students at the relevant grammar school (the *interested parents*) about the proposed appointment.

46J Variation of appointment

- (1) The Minister may, by gazette notice, vary the appointment by extending or shortening the term of the appointment or amending the conditions of the appointment.

[s 46K]

- (2) Before varying the appointment, the Minister must—
 - (a) give the board a written notice of the proposed variation; and
 - (b) take reasonable steps to notify the interested parents about the proposed variation.

46K Early ending of appointment

- (1) Before the term of the appointment ends—
 - (a) the Minister may end the appointment by gazette notice; or
 - (b) the administrator may end the appointment by signed notice given to the Minister.
- (2) Also, the appointment ends if an appointee is appointed under the *Statutory Bodies Financial Arrangements Act 1982*, section 24.
- (3) If the appointment ends under this section, the Minister must immediately notify the board and take reasonable steps to notify the interested parents.

46L Replacement of administrator

- (1) If the appointment ends under section 46K(1), the Minister may appoint someone else as administrator of the board.
- (2) This division, other than section 46F(1), applies to the appointment.

Division 2 Conduct of administration

46M Application of div 2

This division applies during the appointment of an administrator of a board.

46N Administrator's powers and functions

- (1) The administrator has the board's powers and functions.
- (2) This Act and other Acts apply to the administrator, with all necessary changes, as if the administrator were the board.
- (3) The accreditation Act applies to the administrator, with all necessary changes, as if the administrator were the school's governing body.

46O Direction by Minister

- (1) The administrator is subject to the Minister's direction in exercising the administrator's powers and performing the administrator's functions.
- (2) The administrator must give the board a copy of each direction received from the Minister.
- (3) The board must ensure a copy of each direction given to the administrator during a financial year is included in the board's annual report for the year under the *Financial Accountability Act 2009*.

46P Effect on the board

- (1) The board continues in existence subject to this Act.
- (2) However, the board may not exercise its powers and functions under this Act other than in giving the administrator the help that the administrator asks for.

46Q Reports

- (1) The administrator must give to the Minister the reports about the administration that the Minister requires.
- (2) The reports must be given as soon as possible after the end of the appointment or, if required by the Minister at a time during the appointment, at that time.

Part 4 General provisions

Division 1 Offences and related matters

46R Offences relating to non-grammar schools

- (1) A person must not establish or operate a non-grammar school under a name that includes the word ‘grammar’.

Maximum penalty—200 penalty units.

- (2) A person must not hold out a non-grammar school to be a grammar school.

Maximum penalty—200 penalty units.

46S Summary proceedings for offences

- (1) A proceeding 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.

46T Statement of complainant’s knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant’s knowledge on a stated day is evidence of when the matter came to the complainant’s knowledge.

46U False or misleading statement

In a proceeding for an offence against section 46G(3), it is enough for a complaint to state that the statement made was

‘false or misleading’ to the person’s knowledge, without specifying which.

Division 2 Other matters

46V No religious affiliation

A grammar school’s board must ensure the school—

- (a) is operated independently of a church or other body established for religious purposes; and
- (b) is not operated for students of a particular religion.

46W Donation of property other than money

Where a person is a donor to a school by reason of the person’s donation of property other than money, the person shall be taken to have donated money in an amount equal to the value of that property at the date of the person’s donation.

47 Endowment

There shall be paid to a board each year out of the consolidated fund such sums as are appropriated by Parliament for the purpose.

48 Disposal of assets on discontinuing a school

- (1) If a grammar school is discontinued, the Governor in Council may make a regulation with respect to the way in which property held by the school’s board is to be disposed of or held.
- (2) Subsection (1) does not apply to State land granted in trust or reserved and set apart for the school under the *Land Act 1994*.
- (3) If the Governor in Council does not make a regulation in relation to property mentioned in subsection (1), the Minister

[s 49]

may give directions with respect to the way in which the property is to be disposed of or held.

- (4) The power to make a regulation, or give directions, includes the power to vary the trustees, and the terms, of any trust created under this section.
- (5) Subsections (1) and (3) do not authorise the Governor in Council and the Minister to override a trust instrument that—
 - (a) was created before the discontinuance of the school; and
 - (b) concerns property mentioned in subsection (1); and
 - (c) provides for the variation of the trust on the discontinuance of the school.

49 Regulation listing current grammar schools

- (1) As soon as practicable after the commencement of this section, the Governor in Council must make a regulation stating the name of each grammar school existing at the time the regulation is made.
- (2) The Governor in Council may amend the regulation to include the name of another grammar school on receiving advice that the Minister has—
 - (a) given approval under section 6A for the school's establishment; or
 - (b) decided under section 6B to establish the school.
- (3) After consulting with a grammar school's board, the Minister may recommend to the Governor in Council that the regulation be amended to change the school's name.
- (4) On receiving the Minister's advice that a grammar school has been discontinued, the Governor in Council must amend the regulation to omit the school's name.

49A Name under which a school is operated

A grammar school must not be operated under a name other than its name stated in a regulation under section 49.

50 Power of delegation

A board may, in respect of a matter or class of matters or any activity of a school, by resolution, delegate all or any of the board's powers under this Act (save this power of delegation, its powers with respect to the making of rules or by-laws and the adoption of a budget and the approval by it of the proposed disposition of moneys pursuant to section 35(3)) to any member of the board or any committee of its members or any employee of the board or member of the staff of the school.

51 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.
- (3) A regulation may be made about—
 - (a) elections under this Act, including—
 - (i) a minimum or maximum amount that may be prescribed by a board as its electoral eligibility amount; and
 - (ii) an amount that is the electoral eligibility amount for a board if no amount is in force under a by-law for the board; and
 - (iii) when an election is held; and
 - (iv) a maximum number of terms for which a person may be elected under section 7(4)(b); and
 - (b) dealing with the property of a grammar school after the school is discontinued.
- (4) A regulation made under subsection (3)(a)(i) or (ii) may provide for an amount that is an electoral eligibility amount in relation to all elections or a specified election.

Part 5

Transitional provisions for Grammar Schools and Other Legislation Amendment Act 2003

52 **Meaning of *commencement day* for pt 5**

In this part—

commencement day, in relation to a provision of this part, means the day the provision commences.

53 **Existing grammar schools**

A grammar school continued in existence under section 4(2) of this Act, as originally enacted, is taken to be established under this Act.

54 **Amounts previously donated or subscribed**

For section 7(4D), the amounts a person has donated or subscribed to a school include amounts the person donated or subscribed before the commencement day.

55 **Currently eligible persons remain eligible**

- (1) This section applies to a person who, before the commencement day, had donated or subscribed to a school at least the prescribed amount under section 7(4A) as in force immediately before the commencement day.
- (2) The person is taken to have donated or subscribed the electoral eligibility amount for the board.
- (3) Subsection (2) applies despite any amount prescribed on or after the commencement day as the electoral eligibility amount for the board.

56 Disqualification of board member

- (1) This section applies if, before the commencement day—
 - (a) a person had been convicted of an indictable offence;
and
 - (b) under section 9(b), as in force before the commencement day, a board had decided the circumstances of the offence did not warrant disqualification from the office of a member of the board.
- (2) The conviction is taken not to be a conviction for section 9.

57 Application of s 46R offences to certain non-grammar schools

- (1) This section applies to each of the following schools—
 - (a) the Anglican Church Grammar School;
 - (b) the Sunshine Coast Grammar School.
- (2) Section 46R(1) does not apply to the operation of the school.
- (3) For section 46R(2), a person does not hold out the school to be a grammar school only by using the school's name.
- (4) Subsections (2) and (3) apply to the school only while it continues to be operated by its current operator under the name it had immediately before the commencement day.
- (5) In this section—

Anglican Church Grammar School means the school that, before the commencement day, was operated under that name by its current operator.

current operator means—

- (a) for the Anglican Church Grammar School—The Corporation of the Synod of the Diocese of Brisbane; or
- (b) for the Sunshine Coast Grammar School—

- (i) at a time during the period of 1 year starting on the commencement day—the entity operating the school at the time; or
- (ii) at a later time—the entity operating the school on the day that is 1 year after the commencement day.

Sunshine Coast Grammar School means the school that, before the commencement day, was operated under that name by Sunshine Coast Grammar School Pty Ltd ACN 064 506 814.

Schedule Dictionary

section 2

accreditation Act means the *Education (Accreditation of Non-State Schools) Act 2001*.

board means a board of trustees constituted or deemed to be constituted under this Act.

chairperson means the chairperson of a board, and includes a person for the time being performing the functions of chairperson.

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

donor includes a person who donates to a school property other than money.

electoral eligibility amount, for a board, means—

- (a) if a by-law is in force prescribing an electoral eligibility amount for the board—that amount; or
- (b) otherwise—the amount prescribed under a regulation under section 51(3)(a)(ii).

financial year means the period of 12 months commencing on 1 January in any year.

grammar school means, subject to section 6(3), a school established under this Act.

Note—

As well as any schools established under part 1A, this includes the schools originally established under an Act repealed by this Act. See section 53.

interested parents see section 46I.

non-grammar school means—

- (a) a State school within the meaning of the *Education (General Provisions) Act 2006*, schedule 4; or

- (b) a non-State school within the meaning of the accreditation Act, section 6, that is not a grammar school.

submission means a written submission.

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 1 December 2009. Future amendments of the Grammar Schools Act 1975 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 |
| num | = numbered | s | = section |
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 2002 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum | = unnumbered |
| prev | = previous | | |

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 | 1995 Act No. 36 | 16 June 1995 | 10 November 1995 |
| 1A | 1996 Act No. 65 | 9 December 1996 | 22 April 1997 |
| 1B | 1997 Act No. 17 | 1 July 1997 | 26 August 1997 |
| 2 | 1997 Act No. 17 | 1 July 1997 | 5 June 1998 |
| 2A | 2000 Act No. 20 | 1 July 2000 | 14 July 2000 |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|------------------|-----------------------|
| 2B | 2003 Act No. 72 | 1 January 2004 | |
| 2C rv | 2004 Act No. 13 | 1 August 2004 | |
| 2D | 2004 Act No. 44 | 18 November 2004 | |
| 2E | 2006 Act No. 39 | 30 October 2006 | R2E withdrawn, see R3 |
| 3 | — | 30 October 2006 | |
| 3A | 2009 Act No. 9 | 1 July 2009 | |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|-----------------|-------|
| 3B | 2009 Act No. 40 | 1 December 2009 | |

5 Tables in earlier reprints

| Name of table | Reprint No. |
|-----------------------------------|-------------|
| Changed citations and remade laws | 1 |
| Changed names and titles | 1 |
| Obsolete and redundant provisions | 1 |
| Renumbered provisions | 1 |

6 List of legislation

Grammar Schools Act 1975 No. 42

date of assent 9 October 1975

commenced 1 March 1976 (proc pubd gaz 13 December 1975 p 1448)

amending legislation—

Educational Institutions (Amendment of Superannuation Provisions) Act 1984 No. 82 pt 2

date of assent 26 October 1984

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch

date of assent 25 October 1989

commenced on date of assent (see s 2(1))

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 1 (this Act is amended, see amending legislation below)

date of assent 2 July 1992

amds 3–5 commenced 1 July 1992 (see s 2 sch 1)

amds 6, 10 never proclaimed into force and rep 1994 No. 87 s 4(1) sch 3 pt 2

remaining provisions commenced on date of assent

amending legislation—

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–2, 4(1) sch 3 (amends 1992 No. 36 above)

date of assent 1 December 1994

commenced on date of assent (see s 2)

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–2, 3 sch 1

date of assent 3 June 1993

commenced on date of assent (see s 2)

Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36 pt 1, s 9 sch 2

date of assent 16 June 1995
commenced on date of assent (see s 2)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Education (School Curriculum P–10) Act 1996 No. 65 ss 1–2, 52 sch 2

date of assent 9 December 1996
commenced on date of assent

Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch

date of assent 15 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 163)

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3

date of assent 23 June 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(4))

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

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 pt 1

date of assent 24 June 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 1 August 2004 (2004 SL No. 141)

Education Legislation Amendment Act 2004 No. 44 s 1, pt 5

date of assent 18 November 2004
commenced on date of assent

Education (General Provisions) Act 2006 No. 39 ss 1, 2(3), 512(1) sch 1

date of assent 11 August 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 30 October 2006 (2006 SL No. 247)

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Education and Training Legislation Amendment Act 2009 No. 40 pts 1, 6

date of assent 15 October 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 267)

7 List of annotations**Title** amd 2003 No. 72 s 4**Definitions****s 2** prev s 2 om R1 (see RA s 37)
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pres s 3 ins 2003 No. 72 s 6
om 2009 No. 40 s 38**Act binds all persons****s 4** prev s 4 om 1992 No. 36 s 2 sch 1
pres s 4 ins 2003 No. 72 s 6**Purpose and explanation****s 5** Note—prev s 5 contained definitions for this Act. Definitions are now located
in the schedule (Dictionary).
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Note—definitions for this Act were originally located in prev s 5

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reloc 2003 No. 72 s 5(5)

def **“board”** reloc 2003 No. 72 s 5(5)

def **“chairperson”** amd 2003 No. 72 s 5(4)

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def **“convicted”** ins 2003 No. 72 s 5(3)

reloc 2003 No. 72 s 5(5)

def **“donor”** reloc 2003 No. 72 s 5(5)

def **“electoral eligibility amount”** ins 2003 No. 72 s 5(3)

reloc 2003 No. 72 s 5(5)

def **“financial year”** reloc 2003 No. 72 s 5(5)

def **“grammar school”** ins 2003 No. 72 s 5(3)

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def **“interested parents”** ins 2003 No. 72 s 5(3)

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def **“Minister”** om from prev s 5 1992 No. 36 s 2 sch 1

def **“non-grammar school”** ins 2003 No. 72 s 5(3)

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def **“school”** om from prev s 5 2003 No. 72 s 5(2)

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