

Education (Queensland Curriculum and Assessment Authority) Bill 2013

Explanatory Notes

Short title

The short title of the Bill is the Education (Queensland Curriculum and Assessment Authority) Bill 2013.

Policy objectives and the reasons for them

The objective of the Education (Queensland Curriculum and Assessment Authority) Bill 2013 (the Bill) is to establish the Queensland Curriculum and Assessment Authority (the Authority) as the new statutory body responsible for syllabus development, supporting the implementation of syllabuses and the Australian Curriculum, testing, moderation, certification, tertiary entrance ranking, and administration of student accounts.

Despite the establishment of the Australian Curriculum Assessment and Reporting Authority (ACARA), and the progressive implementation of the Australian Curriculum, there remains a fundamental need for a single, independent body to oversee school curriculum, assessment and testing frameworks in Queensland for the following reasons.

- While the Australian Curriculum will provide curriculum content and achievement standards, state and territory authorities will retain responsibility for assessment procedures and the structure of senior courses.
- In the senior years, the Australian Curriculum will extend to 15 subjects in English, mathematics, science, history and geography. Any syllabuses needed in other areas (e.g. accounting, economics and languages) will have to be developed by states and territories.
- Putting responsibility for syllabus content at arm's length from Government helps to address any perceived concerns with the politicisation of school curriculum.
- High-stakes, cross-sectoral processes such as the administration of benchmark testing, senior assessment standards and issuing senior student results and tertiary entrance ranks are best administered by an entity that is separate from the department and state schools.
- All Australian states and territories have statutory curriculum bodies that are responsible for senior curriculum processes to ensure comparable school-based assessment (e.g. moderation) and issuing student certificates.

The Authority will replace the Queensland Studies Authority (QSA), creating a robust statutory entity with strong corporate governance and clearly defined functions that are

consistent with, and relevant to, the current educational environment. Strong, expert strategic governance will be critical in enabling the Authority to lead the implementation of senior Australian Curriculum subjects in Queensland schools, and to implement any changes arising from the review of Queensland tertiary entrance and senior assessment processes.

The *Education (Queensland Studies Authority) Act 2002* (QSA Act) is over a decade old. A new legislative framework is required to reflect the current educational environment, including implementation of the Australian Curriculum.

Achievement of policy objectives

The Bill achieves its objectives by repealing the QSA Act to abolish the QSA and establish the Authority. The functions of the Authority include:

- developing, purchasing and revising syllabuses for senior subjects (years 11 and 12) - if there is an Australian curriculum for the senior subject, the QCAA must adopt the Australian curriculum content and standards of achievement for the subject as the basis for the developing the syllabus;
- developing, purchasing and revising syllabuses where there is no Australian curriculum for the preparatory year to year 10;
- developing, purchasing, revising and accrediting kindergarten guidelines;
- supporting schools and approved providers of education and care services to implement syllabuses, the Australian curriculum and kindergarten guidelines;
- developing moderation procedures and arranging for moderation of student assessment;
- developing, purchasing and revising and marking prescribed tests (e.g. the Queensland Core Skills Test) and national common tests (e.g. National Assessment Program in Literacy and Numeracy (NAPLAN));
- developing and administering procedures for student certification e.g. the Queensland Certificate of Education (QCE), including processes to ensure the consistency of school-based assessment;
- managing student accounts for the purpose of student certification and for the chief executive to undertake planning and re-engagement activities;
- developing processes and ranking students for tertiary entrance; and
- commercially exploiting a product or service developed by the QCAA or licenced to it.

The Bill provides contemporary and effective governance arrangements, including a seven member governing body comprising nominees from each of the three schooling sectors and four Ministerial nominees selected on the basis of expertise relevant to the functions of the Authority.

The Bill also enables the Minister to issue a written statement of expectations outlining key priorities that are to be taken into account by the Authority in the exercise of its functions.

Alternative ways of achieving policy objectives

There are no alternative ways of establishing the new Authority other than the proposed Bill.

Estimated cost for government implementation

Implementation of the Bill is not expected to result in any additional costs.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Under section 4(2) of the *Legislative Standards Act 1992*, legislation must have regard to the rights and liberties of individuals and the institution of Parliament.

- *Ineligibility of the Authority members for convictions and bankruptcy*

The Bill provides that a person cannot be appointed, or continue as a member, of the Authority if the person is insolvent or has a conviction for an indictable offence. It is arguable that this proposal could adversely affect the rights and liberties of a person who is, or may become, a member of the Authority.

This is justified on the basis that it is appropriate for members of the proposed statutory body to be integrity checked, given the position of public trust and responsibility.

- *Access to criminal history of Authority members and chief executive officer*

The Bill enables the Minister to request from the Commissioner of Police a criminal history for the purposes of deciding whether a member or a prospective member is disqualified. The Minister may also request a criminal history for the chief executive officer or a prospective chief executive officer (CEO) to decide whether they are an appropriate person. It is arguable that this proposal could adversely affect the rights and liberties of a person.

This power is necessary to enable the Minister to consider a person's criminal to ensure members or prospective members are not disqualified from membership or the CEO or prospective CEO are appropriate for the role. The Bill includes safeguards about the use of a person's criminal history; it will not include spent convictions; the consent of the person is required before conducting the check; and the check must be destroyed once the appointment process is complete.

- *Protection from civil liability*

The Bill includes protection from civil liability for the Minister, members of the Authority or a committee of the Authority, the chief executive officer and employees of the Authority for an act or omission made honestly and without negligence in the performance of their functions under the Act.

It is not considered appropriate for an individual to be made personally liable in these circumstances as a consequence of carrying out their responsibilities under the proposed

legislation. The potential breach of fundamental legislative principles is justifiable on the basis that the provision operates to attach civil liability to the State instead.

- *Guidelines*

The Bill allows the Authority to make guidelines relevant to the performance of its functions. This power may be considered an inappropriate delegation of legislative power or a failure to subject an exercise of delegated legislation to Parliamentary scrutiny. This power is similar to section 78 of the QSA Act. It is considered appropriate to retain the capacity for the Authority to make guidelines as it provides a formal recognition of processes which, due to their highly detailed nature, are more appropriate for guidelines than principal legislation.

- *Transitional regulation-making power*

The Bill includes a one year transitional regulation making power that will allow a regulation to amend the Act. The inclusion of such a power is justified on the basis that any transitional issues in relation to abolishing the QSA and establishing the Authority that have not been identified during the drafting of the provisions can be quickly addressed. Parliamentary committees have accepted that such provisions may be necessary to resolve complex transitional arrangements arising from the ending of one legislative scheme and the implementation of a new one.

Consultation

An exposure draft of the Bill was released for targeted public consultation with state and non-state schooling sectors, teacher unions, parent groups, principal associations, the public sector Together Union, Queensland universities and training institutions that use the Overall Position tertiary entrance rank.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the short title of the Act is the *Education (Queensland Curriculum and Assessment Authority) Act 2013*.

Clause 2 provides for the Act to commence on a day to be fixed by proclamation.

Clause 3 provides that the objects of the Act are: to help schools and approved providers of education and care services to achieve quality learning outcomes for their students and children who attend their services respectively; to provide accurate and informative records of student achievement, including through the production of certificates of achievements and statements of results; and to maintain public confidence in certificates and statements developed and administered by the Queensland Curriculum and Assessment Authority (the Authority).

Clause 4 states that the dictionary in schedule 2 defines particular words used in the Act.

Part 2 Queensland Curriculum and Assessment Authority

Division 1 Establishment and status

Clause 5 provides for the establishment of the Authority. The Authority is a body corporate; has a common seal; and may sue and be sued in its corporate name.

Clause 6 specifies that the Authority represents the State and has the status, privileges and immunities of the State.

Clause 7 states that the Authority is a statutory body under the *Financial Accountability Act 2009* (FA Act); and a statutory body under the *Statutory Bodies Financial Arrangements Act 1982* (SBFA Act). Subsection (2) provides that the SBFA Act, part 2B sets out the way in which the Authority's powers under this Act are affected by the SBFA Act.

Clause 8 enables the Authority to perform its functions, inside or outside Queensland, including outside Australia.

Division 2 Functions

Clause 9 sets out the Authority's functions in relation to syllabuses for senior subjects. The Authority has the function for senior subjects: to develop and revise syllabuses; and purchase and revise syllabuses developed by another entity. A *senior subject* is defined in the dictionary to mean a school subject offered in years 11 or 12 of schooling. *Syllabus* is defined in the dictionary to include: a statement of content; standards of achievement; and assessment processes. Senior syllabus documents will align curriculum content, standards of achievement and comparable school-based assessment processes as a foundation for senior certification and tertiary entrance ranking.

Subsection (2) provides that in developing a syllabus for a senior subject for which there is an Australian curriculum, the Authority must adopt the Australian curriculum content and standards of achievement for the subject as a basis for developing the syllabus. The term *Australian curriculum* is defined in the dictionary to mean the national curriculum as agreed by the Ministerial Council and administered by the Australian Curriculum, Assessment and Reporting Authority under the *Australian Curriculum, Assessment and Reporting Authority Act 2008* (Cwlth).

Clause 10 sets out the Authority's functions in relation to syllabuses for P-10 subjects for which there is no Australian curriculum. In these circumstances, the Authority has the function to: develop and revise syllabuses; and purchase and revise syllabuses developed by another entity. *P-10 subject* is defined in the dictionary to mean a school subject offered in 1 or more of the following years of schooling: the preparatory year; years 1 - 10.

The Authority does not have a function to develop syllabuses for an Australian curriculum subject in P-10. This differs from the Authority's syllabus development function for senior subjects (years 11-12), in which a syllabus document is to be provided as a basis for senior certification and tertiary entrance ranking. Schools will access P-10 Australian curriculum content and achievement standards, and will determine P-10 assessment process.

Clause 11 sets out the Authority's function in relation to kindergarten guidelines. The Authority has the function to: develop and revise kindergarten guidelines; purchase and revise guidelines developed by another entity; and accredit, for implementation in education and care services, guidelines developed by another entity.

Kindergarten guideline is defined in the dictionary to mean a guideline about learning and age-appropriate teaching and assessment practices, in education and care services for the years before the preparatory year. *Education and care service* is defined in the dictionary to mean: an approved education and care service under the *Education and Care Services National Law* (Queensland); or a Queensland approved education and care service within the meaning of the *Education and Care Services Act 2013*, schedule 1.

In order to be eligible for Government funding under the *Queensland Kindergarten Funding Scheme*, Queensland providers of kindergarten programs are currently required to implement a program based on either the Queensland Kindergarten Learning Guideline (QKL guideline) developed by the QSA, or an alternative kindergarten guideline accredited by the QSA. The Authority will assume the role of accrediting alternative kindergarten guidelines and the QKL guideline will be transitioned to be a guideline of the Authority under clause 105.

Under clause 92(2)(b) a regulation making power expressly allows for a regulation to be made about the accreditation by the Authority of kindergarten guidelines for implementation in education and care services.

Clause 12 sets out the Authority's function regarding supporting schools and approved providers of education and care services in implementing:

- a. a syllabus the Authority develops, purchases or substantially revises; or
- b. an Australian curriculum; or
- c. a kindergarten guideline the Authority accredits, develops, purchases or substantially revises.

Subsection (2)(a) stipulates that the function under subsection (1) is primarily performed by the Authority giving school authorities and approved providers, or their nominees, information about the content and purpose of the syllabus, Australian curriculum or kindergarten guideline. The school authority may provide a nominee to receive this information, e.g. the Association of Independent Schools Queensland Inc may be nominated by the governing body of an independent non-state school.

Subsection (2)(b) provides the function under subsection (1) may also be performed by the Authority providing resources to support the implementation of the syllabus, Australian curriculum or kindergarten guideline; or by developing resources and providing services for the professional development of teachers or education and care services staff.

Subsection (3) provides that the Authority has the function mentioned in subsection (1) for recognised schools. *Recognised school* is defined in the dictionary to mean an entity that: provides educational instruction to students; and does not operate in Australia; and the governing body of which has an agreement with the State under which the governing body is authorised to implement, for the students, the Authority's syllabuses for senior subjects.

Subsection (4) defines the term *school authority* for the purposes of the section.

Clause 13 provides that the Authority has the following functions relating to testing:

- a. develop, purchase and revise tests prescribed under a regulation;
- b. develop procedures for schools, or the Authority, to administer prescribed tests;
- c. participate in the development and revision of common national tests. *Common national test* is defined in the dictionary to mean a test for literacy or numeracy specified in a regulation made under the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004* (Cwlth);
- d. implement procedures for schools, or the Authority, to administer common national tests;
- e. mark prescribed tests and common national tests and giving the individual test results of each student undertaking the tests to: the student; and to the principal of the school at which the student is enrolled;
- f. analyse systemic information about the performance of persons who undertake prescribed tests or common national tests and report the results of the analysis to the Minister, the chief executive, the Association of Independent Schools of Queensland Inc. (ISQ) and Queensland Catholic Education Commission (QCEC).

Subsection (2) clarifies the Authority also has these testing functions for recognised schools.

Clause 14 sets out the Authority's functions relating to moderation. *Moderation* is defined in the dictionary to mean the process under which student assessment is moderated to ensure comparability across the State and at recognised schools, of the assessing teachers' judgments in deciding results. *Student assessment* is also defined in the dictionary to mean the results of school-based assessment of persons' achievements in school studies.

The Authority's moderation functions are: developing moderation procedures; and arranging for moderation of student assessment.

Subsection (2) clarifies that the Authority also has these moderation functions for recognised schools.

Under clause 92(2)(d) a regulation-making power expressly allows for a regulation to be made about procedures and arrangements for moderation.

Clause 15 sets out the Authority's certification functions. The Authority has the function to:

- a. review, and make recommendations to the Minister about, the requirements for issuing certificates of achievement, and statements of results, prescribed under a regulation;
- b. decide procedures, and carry out arrangements, for the assessment of persons in school subjects that are certification studies. *Certification studies* is defined in the dictionary to mean studies prescribed under a regulation to be contributing studies for a certificate of achievement;
- c. approve work programs for the school subjects that are certification studies, for use in the schools that developed the programs;
- d. issue certificates of achievement, and statements of results, prescribed under a regulation;
- e. give a person on request a copy of the documents listed;
- f. recognise the results of a person in certification studies, prescribed under a regulation, that are not school subjects.

Subsection (2) clarifies that the Authority has these certification functions for recognised schools.

Under clause 92(2)(a) a regulation-making power expressly allows for a regulation to be made about the issuing of certificates of achievement and statement of results, including the eligibility requirements for the issue of certificates and statements.

Clause 16 sets out the Authority's student account function. The Authority has the function to keep student accounts under part 3 and to deal with information recorded in student accounts in the way permitted or required under part 3. Accordingly, part 3 provides a more fulsome explanation about the operation of student accounts.

Subsection (2) clarifies the Authority also has this function for recognised schools.

Clause 17 sets out the Authority's tertiary entrance function. The Authority has the function to:

- a. develop, in consultation with the Minister, processes for use in ranking students as a basis for tertiary entrance;
- b. ranking students as a basis for tertiary entrance, using the developed processes; and
- c. issuing documents to students to advise them of their tertiary entrance ranking.

Subsection (2) provides that the Authority also has these tertiary entrance functions for recognised schools.

Under clauses 92(2)(f) and (g) a regulation-making power expressly to allows for regulations to be made about procedures for ranking persons as the a basis for tertiary entrance, including giving information about ranking to entities with a legitimate interest in the information, and the issuing of tertiary entrance statements, respectively. Under clause 92(2)(h) a regulation may also be made about the review by the Authority of information contained in a tertiary entrance statement issued to a person under the Act.

Clause 18 sets out the Authority's commercial exploitation function. The Authority has the function to commercially exploit (this includes sell) a product or service developed by it in the course of performing its functions, or licensed to it. *Clause 73* provides the Minister may give the Authority a written direction about: a product containing intellectual property held by the Authority or for which the Authority holds a licence; or a service provided by the Authority relating to such a product. *Subsection 73(2)* confirms that the direction may be about the commercial exploitation of the product or service.

Clause 19 sets out other functions of the Authority. The Authority has functions to: advise the Minister and inform the public about matters relevant to the performance of its functions; conduct research to support the efficient and effective operation of its functions; decide the equivalent level of school education, or school qualification in Queensland reached or a qualification obtained outside the State; exercise a power delegated to it under the *National Vocational Education and Training Regulator Act 2011* (Cwlth), section 224; give information obtained in the performance of its function to the Commonwealth, a State or entity of the Commonwealth or the State; and a function given to the Authority under this or another Act.

Division 3 Powers

Clause 20 specifies the powers of the Authority. The Authority has all the powers of an individual. For example, the Authority may establish committees to report to it on particular matters such as syllabus development. However, the Authority must not enter into an agreement about real property including, for example, leasing premises for its accommodation, without the written approval of the Minister.

Division 4 Delegation

Clause 21 enables the Authority to delegate the performance of any of its functions, or the exercise of any of its powers, under this or another Act to an appropriately qualified entity including: a member; or a committee of the Authority; or the chief executive officer (CEO); or an employee of the Authority. *Subsection (2)* allows an entity to subdelegate a function or power only if the delegation permits the subdelegation.

Division 5 Membership

Clause 22 provides that the Authority is comprised of the following seven members:

- a. the chief executive, or a nominee of the chief executive;
- b. the following appointed members (appointed by the Governor in Council):
 - the executive director, or nominee, of the ISQ;
 - the executive director, or nominee, of the QCEC;
 - one nominee of the Minister having relevant corporate, governance or financial qualifications or experience;
 - three other nominees of the Minister having the qualifications, experience or standing the Minister considers relevant to the functions of the Authority.

Clause 23 stipulates that members of the Legislative Assembly, councillors of a local government; and the chief executive officer are ineligible for nomination or appointment as a member.

Clause 24 sets out how the ISQ and the QCEC can nominate a person for membership of the Authority under section 22. The Minister must give the ISQ and the QCEC a notice stating a reasonable time within which the entity may nominate a person for membership. If the entity does not nominate a person within the stated period, the executive director of the entity is automatically taken to be the entity's nominee.

Clause 25 provides an appointed member is appointed for a term not more than four years, stated in the appointed member's instrument of appointment.

Clause 26 provides an appointed member is to be paid the remuneration and allowances decided by the Governor in Council. If a matter is not provided for under the Act, the appointed member holds office on the terms and conditions decided by the Governor in Council.

Clause 27 provides for how the chair of the Authority is to be appointed.

Clause 28 provides for how the deputy chair of the Authority is to be appointed.

Clause 29 provides for the circumstances where a person is disqualified from becoming, or continuing as, a member. The first circumstance is where a person has a conviction, other than a spent conviction, for an indictable offence, unless the Minister has given the person an approval notice under subsection (4) for the conviction. The dictionary defines the term *spent conviction*.

The second circumstance is where a person is an insolvent under administration unless the Minister has given the person an approval notice under subsection (4) for the insolvency. Subsection (7) defines the term *insolvent under administration*.

The third circumstance is where a person is not able to manage a corporation because of the *Corporations Act 2001* (Cwlth), part 2D.6.

Clause 30 enables the Minister to approve a leave of absence for a member.

Clause 31 provides for how a member of the Authority may resign.

Division 6 Chief executive officer

Clause 32 provides that the Authority must have a chief executive officer (CEO). The CEO is appointed by the Governor in Council, on the recommendation from the Minister, after consultation with the Authority.

Clause 33 provides that the CEO's term of appointment is no more than 5 years stated in the CEO's instrument of appointment.

Clause 34 provides that the CEO is to be paid the remuneration and allowances decided by the Governor in Council. For matters not provided for under the Act, the CEO holds office on the terms and conditions of appointment decided by the Governor in Council.

Clause 35 provides for the preservation of existing rights and entitlements of the CEO and states that the *Public Service Act 2008* does not apply to the CEO's appointment.

Clause 36 states that the CEO is, subject to the direction of the Authority through its chair, responsible for the effective and efficient administration and operation of the Authority. Subsection (2) clarifies that the CEO's responsibilities include managing staff of the Authority in accordance with the requirements of this Act and the *Public Service Act 2008*.

Clause 37 enables the CEO to delegate a function, power or responsibility of the office to an appropriately qualified employee of the Authority.

Clause 38 sets out the circumstances in which the Minister may appoint an acting CEO.

Clause 39 provides for how the CEO may resign.

Division 7 Staff

Clause 40 empowers the Authority to employ staff, as it considers appropriate, to perform its functions or exercise its powers. Subsection (2) provides that, subject to section 41, staff are appointed under the *Public Service Act 2008*.

Clause 41 states that the Authority may employ casual staff under this section rather than under the *Public Service Act 2008*. This clause is similar to section 69A of the QSA. Clause 105 transitions casual staff to the Authority on the same terms and conditions as the person was employed under the QSA Act.

Subsection (2) provides that the casual staff employed under this section are entitled to be paid the remuneration and allowances decided by the Governor in Council.

These staff are not subject to any industrial instrument or any determination or rule of an industrial tribunal. This ensures that casual staff will be employed, and their remuneration determined, under this Act rather than under any industrial agreement or award.

These staff are subject to the direction and control of the CEO. For example, the CEO will be responsible for the duties of these employees, their location of employment, any training required, and any other matters associated with their employment.

Subsection (3) declares that a person employed under this section may be simultaneously employed in another capacity under the *Public Service Act 2008*. For example, if a person is employed under this section to carry out testing they may also be employed as a State school teacher under the *Public Service Act 2008*.

Division 8 Criminal history

Clause 42 provides for the Minister to request a criminal history report about a member, or prospective member, of the Authority, the CEO or a prospective CEO. This section enables the Commissioner of Police to provide information about a person's criminal history.

Clause 43 provides that a criminal history given under section 42 is a confidential document. It is an offence for a person to disclose the report unless permitted under subsection (3). A failure to comply with this requirement makes a person liable to a maximum penalty of 100 penalty units.

Clause 44 requires members of the Authority and the CEO to immediately disclose changes in their criminal history to the Minister. A failure to comply with this requirement makes a person liable to a maximum penalty of 100 penalty units. Subsection (2) lists the information which must be disclosed. Subsection (3) clarifies that if a person does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires one.

Division 9 Reporting

Clause 45 stipulates that for each financial year, the Authority must develop and adopt a budget and give it to the Minister by the day directed by the Minister. Subsection (4) stipulates the Authority must comply with its approved budget, and any amendments approved by the Minister, for the financial year.

Clause 46 provides that the annual report of the Authority under the FA Act must include details of the listed documents, requests, directions and delegations.

Part 3 Student accounts

Division 1 Preliminary

Clause 47 inserts definitions for part 3.

Clause 48 provides the meaning of *student account*. A student account is a record kept for a person to record information about the person's results in certification studies; and for a person in the compulsory participation phase—the person's participation in eligible options during the compulsory participation phase. *Compulsory participation phase* is defined in the dictionary.

Clause 49 provides the meaning of *student account phase*.

Clause 50 specifies the purposes for which student accounts are kept, namely: supporting the Authority in performing its certification functions (section 15); making information available to the chief executive to enable the chief executive to carry on planning activities; and making information available to the chief executive to enable the chief executive to carry on re-engagement activities for young persons in the compulsory participation phase.

Division 2 Opening student accounts

Clause 51 creates the obligation to open a student account for a young person within one year before the start of the person's compulsory participation phase.

Clause 52 creates an obligation to open a student account for particular young persons, being a person for whom the Authority receives a notice under section 56(1), and the person does not have a student account.

Clause 53 provides for student accounts to be opened for persons who are enrolled to undertake certification studies at a recognised school.

Clause 54 provides for student accounts to be opened by persons who are not in the student account phase or of compulsory school age or younger.

Clause 55 provides that the Authority must assign an account number for the account and give a notice to the entity that opened the account that the account has been opened.

Division 3 Provision of student account information to Authority

Clause 56 imposes an obligation on providers to notify the Authority of the enrolment of persons in a program or course that is a component of an eligible option.

Clause 57 imposes an obligation on providers to give the Authority result information about a person enrolled with the provider in certification studies. *Result information* is defined in subsection (4).

Clause 58 provides for an obligation on providers to notify the Authority of particular matters, for example, when a person stopped being enrolled with a provider or a recognised school.

Clause 59 provides for an authorised agent of a provider to give notice on behalf of a provider. The agent may only give the notice if there is a written agreement between the provider and the agent.

Division 4 Authority to record information in student accounts

Clause 60 provides that the Authority must record information in a person's student account where the information is received under division 2 or 3, or from the person.

Division 5 Use of student account information by Authority

Clause 61 provides that the Authority may use student account information to perform its certification functions under section 15.

Division 6 Authority must allow access to student account information

Clause 62 provides for how the Authority must allow providers to access information in student accounts.

Clause 63 provides for the Authority to give a recognised school access to information recorded in student accounts for persons enrolled at recognised schools in certification studies.

Clause 64 provides for the Authority to give access to a person for whom a student account is kept.

Division 7 Disclosure of student account information by Authority

Clause 65 provides the Authority may disclose prescribed information in a student account to providers or recognised schools. Subsection (1) allows for the information to be disclosed to (a) a provider the Authority reasonably believes is able to confirm the accuracy of the information; and (b) for a student account for a person enrolled in certification studies at a recognised school – the recognised school.

Subsection (2) provides that the Authority may only disclose information about the enrolment or results of certification studies for a person to the provider or recognised school delivering the certification studies to the person.

Subsection (3) states what providers and recognised schools must do if incorrect information is recorded in the student account.

Clause 66 provides for the Authority to give information to the chief executive in certain circumstances. Subsection (1) provides for the Authority, on request, to give aggregated student account information to the chief executive to enable the chief executive to carry on planning activities. Subsection (2) provides for the Authority, on request, to give prescribed information to the chief executive about a stated young person or all young persons to enable the chief executive to carry on re-engagement activities.

Clause 67 provides for the Authority to disclose to a relevant entity aggregated student account information prescribed in a regulation and at the time prescribed in a regulation. This clause enables relevant data to be given to the ISQ, QCEC and the department administering the *Vocational Education, Training and Employment Act 2000*.

Clause 68 provides for the Authority to disclose information to the VETE chief executive to enable the VETE department to comply with its reporting obligations under Commonwealth agreements.

Division 8 Miscellaneous

Clause 69 provides the chief executive may delegate the chief executive's functions and powers under part 3 to an appropriately qualified employee of the department or the VETE department. Subsection (2) allows the subdelegation of the function or power only if the delegation permits the subdelegation.

Part 4 Minister's powers

Clause 70 stipulates that, if requested by the Minister, the Authority must report to the Minister about the efficiency, effectiveness, economy and timeliness of the Authority and its systems and processes, including operational processes.

Clause 71 provides that if the Minister considers it appropriate, the Minister may refer a matter relevant to the Authority's functions to the Authority for investigation.

Clause 72 provides for the Minister to give directions to Authority if satisfied that the direction is necessary in the public interest. Subsection (3) provides a non-exhaustive list about the matters the Minister may direct the Authority about and subsection (4) provides a list of the matters the Minister can not direct the Authority about. For example, the Minister cannot direct certain content be included in a syllabus.

Clause 73 enables the Minister to give the Authority a written direction about: products containing intellectual property held by the Authority, or for which the Authority holds a licence; or services provided by the Authority for such products. Subsection (2) provides a non-exhaustive list of the matters the Minister may direct the Authority to undertake in relation to its intellectual property.

Clause 74 provides that the Minister may issue a written statement (a statement of expectations) to the Authority, stating the Minister's expectations for the performance of the Authority about its functions. Subsection (2) provides the statement of expectations may apply for a stated particular period and many include the matters set out in subsection (2)(b).

Clause 75 provides the Minister with the power to request information from Authority about the performance of its functions under the Act.

Clause 76 enables the Minister to delegate a function or power of the Minister under the Act to an appropriately qualified entity. Subsection (2) lists the functions and powers the Minister can not delegate.

Part 5 Review of decisions

Division 1 Preliminary

Clause 77 provides that a person who is given, or is entitled to be given, an information notice for a reviewable decision may apply for a review of the decision. The dictionary defines *information notice*.

Clause 78 states the review must, in the first instance, be by way of an internal review. Part 5, division 2 provides for the internal review process.

Division 2 Internal review

Clause 79 sets out how an internal review application is to be made and when the application is to be made.

Clause 80 provides for the appointment of an internal review officer. The internal review officer must, within 7 days after the Authority receives the internal review application, make a written recommendation to the Authority about the reviewable decision.

Clause 81 sets out how the Authority is to make the internal review decision.

Division 3 External review

Clause 82 provides that a person who is dissatisfied with an internal review decision under division 2 may apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review.

Clause 83 states that an application to QCAT under section 82 must be made in the way provided under the *Queensland Civil and Administrative Tribunal Act 2009*.

Part 6 Miscellaneous

Clause 84 provides for the protection from civil liability of persons the listed for acts done, or omissions made, honestly and without negligence under this Act. Liability instead attaches to the State.

Clause 85 provides for the protection of information acquired by a person through performing a function or exercising a power under this Act. A person must not make a record of, or disclose, the information other than for the reasons listed in subsection (2). A failure to comply with this requirement makes a person liable to a maximum penalty of 50 penalty units.

Clause 86 provides the Authority may approve forms for use under this Act.

Clause 87 applies if a school or a recognised school administers a prescribed test or common national test. The principal of the school or recognised school must give the Authority the test script of each student of the school who undertook the test.

Clause 88 stipulates the Authority must give the Minister and the governing body of each non-State school a notice about a syllabus, prescribed test or common national test. The governing body may make a written request to the Authority that a notice mentioned in subsection (1) be given to a nominated body instead of the governing body, e.g. the ISQ or QCEC.

Subsection (3) provides that the Authority must give notice about kindergarten guidelines to the Minister and each approved provider of an education care service other than a service that provides education and care only to children of preparatory year age or older.

Clause 89 empowers the Authority to require schools to give it information about the implementation of a common national test and disclose that information to ACARA.

Clause 90 stipulates that if the Authority changes the requirements for issuing a certificate of achievement, or a statement of results, prescribed under a regulation, the Authority must ensure that a person who was subject to the previous requirements and has become subject to the new requirements is not disadvantaged by the change.

Clause 91 empowers the Authority to make guidelines about its functions. A regulation may also provide for particular matters about which a guideline can be made, and may provide that the guideline can only be made with the approval of the Minister.

Clause 92 provides for the Governor in Council to make regulations under this Act. Subsection (3) provides that before recommending to the Governor-in-Council the making of a regulation about a matter mentioned in subsection (2)(k),(l) or (m) the Minister must consult with the ISQ, QCEC and VETE chief executive.

Part 7 Repeal and transitional provisions

Division 1 Repeal

Clause 93 provides that the *Education (Queensland Studies Authority) Act 2002 No.1* is repealed.

Division 2 Transitional provisions

Clause 94 sets out the relevant definitions for division 2.

Division 3 Authority is successor in law of QSA

Clause 95 provides that at the commencement, the QSA is dissolved and its members cease to hold office.

Clause 96 states that the Authority is the successor in law of the QSA.

Clause 97 transitions the assets and liabilities of the QSA immediately before commencement to the Authority. It is intended that the intellectual property of the QSA will be transferred to the Authority under this provision.

Clause 98 transitions records held or controlled by the QSA immediately before the commencement to be records of the Authority.

Clause 99 transitions the person who held the office of the Director of the Office of the QSA immediately before the commencement to hold office as the CEO of the Authority on the same terms and conditions until the Governor in Council makes an appointment under section 32.

Clause 100 transitions casual staff employed by the QSA under section 69A of the QSA Act immediately before commencement to be taken to have been employed by the Authority under section 41 on the same terms and conditions.

Clause 101 provides the Authority may continue and finish a proceeding started by or against the QSA before the commencement that was not finished. Subsection (2) provides that proceeding that could have been started by or against the QSA can be started by or against the Authority.

Clause 102 states that in an Act or document, a reference to the QSA is taken, to the extent necessary and if the context permits, to be a reference to the Authority.

Subdivision 3 Existing Matters

Clause 103 provides that an approved or accredited 1-12 syllabus in force immediately before the commencement continues in force and is taken to be a senior syllabus under section 9 or a P-10 syllabus under section 10 to the extent it relates to that year level.

Clause 104 provides that an approved or accredited preparatory guideline in force immediately before the commencement continues in force and is taken to be a syllabus under section 10.

Clause 105 provides that an approved or accredited kindergarten guidelines in force immediately before the commencement continues in force and is taken to be a kindergarten guideline under section 11.

Clause 106 transitions approved work programs in force immediately before the commencement to be a work program approved by the Authority

Clause 107 transitions student accounts kept by the QSA immediately before the commencement to be an account kept by the Authority under part 3.

Clause 108 transitions a guideline in force immediately before commencement to be a guideline under section 91 of the Act.

Clause 109 ensures a person who was entitled to apply for an internal review of a decision of the QSA. If the more restrictive time limit to apply under the QSA Act (i.e. seven days) has passed, but the new time limit in the Act has not (i.e. 14 days), the person can still apply for internal review.

Clause 110 transitions an application for internal review that has not been finally dealt with immediately before the commencement to be an application for internal review made under Part 5 of the Act.

Clause 111 applies to non-state schools provisionally accredited or accredited under the *Education (Accreditation of Non-State Schools) Act 2001* with a QSA curriculum model as an attribute of provisional accreditation or accreditation. If the school implements a syllabus developed, purchased or revised by the Authority or an Australian curriculum, it is taken to also have that attribute of provisional accreditation or accreditation as applicable. If the school returns the certificate of accreditation or provisional accreditation, as applicable, to the Non-State Schools Accreditation Board, the Board may issue a replacement certificate stating the details of the additional curriculum models.

Subsection (4) ensures that any eligibility for Government funding the school had for the QSA curriculum model continues to apply.

Clause 112 applies to an entity that is a recognised school within the meaning of the *Education (General Provisions) Act 2006* (the E(GP)A) immediately before commencement. The entity is taken to be a recognised school under this Act. This transitional provision is necessary as schedule 1 makes a consequential amendment to the E(GP)Act to omit Chapter 2A which provides for the process for a school to be recognised. The Bill includes a definition of *recognised school* in schedule 2. The definition reflects the fact that recognised schools are governed by the contractual relationship between the State and the governing body of the school for implementation of the Authority's syllabuses for senior subjects in the school.

Subdivision 4 Other transitional provision

Clause 113 provides for a transitional regulation making power. This section and any transitional regulation expire one year after the commencement.

Part 8 Minor and consequential amendments

Clause 114 states that schedule 1 amends the Acts mentioned in it.

Schedule 1 Minor and consequential amendments

Schedule 1 makes consequential amendments to the this Act, the *Education (General Provisions) Act 2006*, the *Education (Queensland College of Teachers) Act 2005*, the *Integrity Act 2009*, and the *Public Service Act 2008*.

Part 1 Amendment of this Act

Item 1 amends the long title upon commencement to omit the reference to the consequential amendments in schedule 1.

Items 2 – 3 make consequential amendments to the Act to omit schedule 1 (Minor and consequential amendments) and renumber schedule 2 (Dictionary) as schedule 1. Upon commencement of the Act schedule 1 will automatically be omitted. This means the Act as made will include schedule 1, however the first reprint of the Act will not include schedule 1.

Part 2 Amendment of other Acts

Education (General Provisions) Act 2006

Items 1, 4 and 6 to 12 make minor consequential amendments to the E(GP)A, including to omit references to the QSA, QSA Act and definitions in the QSA Act and instead refer to the new Act and terms used in the new Act, and to remove references to chapter 2A (Recognised schools) of the E(GP)A (omitted by item 5).

Item 2 omits a note in section 6 of the E(GP)A and replaces it with a reference to this Act.

Item 3 omits section 22 and 23 of the E(GP)A. Section 22 of the E(GP)A provides that the Minister may develop and revise 1-12 syllabuses and preparatory guidelines. The original intent of this section was to enable the Department to develop syllabuses or guidelines for state schools, at the direction of the Minister, which would in turn be subject to accreditation by the QSA. This represents a potential duplication between the Department and the functions of the Authority. This power is no longer necessary as it is the Authority who will develop and revise syllabuses and kindergarten guidelines.

Section 23 of the E(GP)A provides that in providing education in school studies, a State instructional institution may only implement a QSA approved or accredited syllabus or a vocational education and training (VET) course for a registered training organisation. Section 23(2) and (3) enable the Minister to direct the principal of a State instructional institution to ensure the institution provides education in stated school studies or implements a stated approved or accredited syllabus or VET course. As curriculum requirements for state schools are already determined as a matter of departmental policy section 23 is no longer required.

Item 5 omits Chapter 2A (Recognised schools) of the E(GP)A. Chapter 2A of the EGPA currently sets out an application process for a recognised school, the criteria for considering applications and processes for cancelling recognition. Rather than retaining these detailed procedural requirements, the Bill defines a *recognised school* as an entity that provides educational instruction to students; does not operate in Australia; and the governing body of the school has entered an agreement with the State whereby the school is authorised to implement the Authority's senior syllabuses for its students.

Under this approach, specific obligations and requirements between recognised schools and the State will be set out under contractual arrangements between the parties. This is consistent with the fact that decisions to provide Queensland syllabus products to overseas schools are commercial decisions for the State, rather than regulatory matters that would require a prescriptive statutory framework.

Education (Queensland College of Teachers) Act 2005

Item 1 amends the definition of *prescribed school* in section 74(1)(b) of the *Education (Queensland College of Teachers) Act 2005* to refer to an institution or place which offers an educational program based on the national curriculum or a syllabus developed, revised or purchased by the Authority.

Integrity Act 2009

Item 1 amends schedule 1 of the *Integrity Act 2009* to omit the entry for the QSA Act and the Director of the Office and instead insert the new Act and CEO of the Authority.

Public Service Act 2008

Item 1 amends schedule 1 of the *Public Service Act 2008* to omit the entry for the QSA and its Director and instead insert the new Act and the CEO of the Authority.

Schedule 2 Dictionary

Schedule 2 contains the dictionary.