

Education (Accreditation of Non-State Schools) and Other Legislation Amendment Bill 2005

Explanatory Notes for Amendments to be moved during Consideration in detail by The Honourable Anna Bligh MP

Title of the Bill

Education (Accreditation of Non-State Schools) and Other Legislation Amendment Bill 2005 (the Bill).

Objectives of the Amendments

The objective of the amendment is to amend the definition of “prohibited arrangement” in clause 4 of the Bill.

Reasons for the Amendments

One of the primary objectives of the Bill is to amend the *Education (Accreditation of Non-State Schools) Act 2001* to ensure that Government funding does not go to non-State schools that are being used as a vehicle for making and distributing profits to shareholders rather than for the benefit of schools and their students.

To meet this objective, the Bill inserts two new criteria into the Act to ensure that a school for which Government funding is sought is not in fact being operated for-profit. Clause 5 amends section 17(1)(b) of the Act so that, before being considered for eligibility for Government funding, the Accreditation of Non-State Schools Board (the Accreditation Board) must be satisfied that:

- (i) an applicant for Government funding is not and does not intend to enter into a “prohibited arrangement”; and
- (ii) there is no direct or indirect connection, and there will not on the establishment of the school, be a direct or indirect connection between an applicant for Government funding and a for-profit entity that could

reasonably be expected to influence the applicant when making financial decisions.

Clause 4 inserts section 7A into the Act to define the term “prohibited arrangement” to mean an arrangement or contract entered into between parties not dealing with each other at arm’s length.

The proposed section 7A(2) further qualifies the definition of “prohibited arrangement” to ensure that the mere fact that a non-profit entity, such as a Religious Institute, has the power to appoint and remove directors of a governing body does not of itself mean that an arrangement between the school and the non-profit entity is a prohibited arrangement.

Subsequent to introduction of the Bill, further representations were made about potential arrangements between governing bodies of schools and non-profit entities, particularly within religious systems of schooling, that may be captured by the definition of “prohibited arrangement”.

Achieving the Objectives

The Government’s policy intention remains that Government funding should not go to the governing body of non-State school if the school is being used as a vehicle for making and distributing profits to commercial operators and their shareholders. To achieve this policy intention, the amendment will focus the Bill’s attention on arrangements between governing bodies and commercial entities, not non-profit entities.

The amendment amends clause 4 of the Bill to change the definition of “prohibited arrangement” to mean a contract or arrangement entered into by a school’s governing body or proposed governing body and a for-profit entity not dealing with each other at arm’s length. This targets the Government’s concerns on relationships between a school’s governing body and for-profit entities.

Consultation

The Chair of the Accreditation Board, the Queensland Catholic Education Commission (QCEC) and the Association of Independent Schools Queensland (AISQ) were consulted about the proposed amendment. The Chair of the Accreditation Board, the QCEC and the AISQ support this amendment, however, the AISQ remains opposed to the Bill.

Notes on Provisions

Amendment 1 amends Clause 4 to omit the proposed definition of “prohibited arrangement” and replace it with the following definition:

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