

Education (Accreditation of Non-State Schools) Bill 2017

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by The Honourable Kate Jones MP, Minister for Education and Minister for Tourism, Major Events and the Commonwealth Games

Short title of the Bill

The short title of the Bill is the Education (Accreditation of Non-State Schools) Bill 2017.

Policy objectives and the reasons for them

The amendments to be moved during consideration in detail:

- give effect to the Government's response to the Education, Tourism, Innovation and Small Business Committee (the Committee) Report No.36 in regard to the Education (Accreditation of Non-State Schools) Bill 2017 (the Bill); and
- correct some minor drafting errors identified since the introduction of the Bill.

The Committee recommended that the Bill be passed and made two further recommendations for amendment to the Bill.

Recommendation 2

The Committee recommended that clause 7 of the Bill be amended to ensure that a governing body of multiple schools is not prevented from using some income to support the operation of some or all of its schools. The Government accepts this recommendation.

Recommendation 3

The Committee recommended that clause 119 of the Bill be amended to correct a minor drafting error. The Government accepts this recommendation.

Minor and technical amendments

In addition, a number of other minor and technical amendments to the Bill have been identified.

Achievement of policy objectives

Recommendation 2

Clause 7 of the Bill provides that a school is operated for profit if any part of the income arising from the school's operation is used for any purpose other than the operation of the school. The policy behind the change was to provide clearer guidance to the Non-State Schools Accreditation Board (the Board) about when a school is to be considered to be operating for profit. Schools operating for profit are not eligible to receive State government funding.

As noted by the Committee, stakeholders identified the potential for unintended consequences as a result of clause 7 that could restrict existing legitimate arrangements of schools. For example, there was a concern that clause 7 could restrict how a governing body that operates more than one school distributes income, received through the operation of all of its schools, across all the schools that it operates.

In response to these concerns it is proposed to amend clause 7 to provide that a school will be operated for profit if any profits arising from the school's operation are used for any purpose other than a purpose of advancing the school's philosophy and aims, as stated in the school's statement of philosophy and aims. This amendment ensures that governing bodies of multiple schools are not prevented from using some of its income to support the operation of other schools that it operates.

Recommendation 3

It is proposed to amend clause 119 to correct the minor drafting error.

Minor and technical amendments

A number of other minor and technical amendments are proposed to the Bill to ensure that it achieves its policy objectives.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by legislative amendment.

Estimated cost for government implementation

There are no funding implications for government as a consequence of the amendments.

Consistency with fundamental legislative principles

The amendments to be moved during consideration in detail are consistent with fundamental legislative principles.

Consultation

The proposed amendment to clause 7 has been made as a result of the Committee inquiry process, which received four written submissions on the Bill and involved a departmental hearing. Independent Schools Queensland and the Queensland Catholic Education Commission were consulted following the Committee process and support the proposed amendment to clause 7.

Consistency with legislation of other jurisdictions

The amendments are specific to the State of Queensland, and are not inconsistent with legislation in the Commonwealth or other State jurisdictions.

Notes on provisions

Amendment 1 omits clause 7 of the Bill and replaces it with a definition similar to current section 7 of the *Education (Accreditation of Non-State Schools) Act 2001*. The new definition provides that a school is being *operated for profit* if any profits arising from the school's operation are used for any purpose other than to advance the school's philosophy and aims, as stated in the school's statement of philosophy and aims.

Amendment 2 amends clause 8 to provide that a prohibited arrangement is a contract or arrangement *in relation to a school* entered into by the governing body. The amendment aims to clarify that the provision does not apply to contracts or arrangements entered into by a governing body unrelated to a school.

Amendment 3 amends clause 8(2)(b) of the Bill. Clause (8)(2)(b) currently provides that a contract or arrangement is not, or will not be, for the benefit of the school if that contract or arrangement is for property, goods or services *that are not required for the operation of the school*. The clause is being amended to provide that a contract or arrangement is not, or will not be, for the benefit of the school if that contract or arrangement is for property, goods or services *that are not required to advance the school's philosophy and aims, as stated in the school's statement of philosophy and aims*. This is consistent with the amendment to clause 7.

Amendment 4 amends clause 31 of the Bill to correct a typographical error.

Amendment 5 amends clause 39 of the Bill to include a requirement that an application is *made to the Board*. This is consistent with other application provisions in the Bill.

Amendment 6 amends clause 45 to correct a minor drafting error.

Amendment 7 amends clause 46 to provide that an attribute of accreditation stops applying to the school on the day stated in the notice given by the governing body to the Board.

Amendment 8 amends clause 64 to correct a minor drafting error.

Amendment 9 amends clause 71 to clarify that cancellation of accreditation can be for a type of education, that is, primary, secondary or special education. This means, for example, that if a school is accredited to provide primary and secondary education, the Board may under this provision cancel the school's accreditation for either primary or secondary education or for both primary and secondary education.

Amendment 10 amends clause 73 to provide that surrender of an accreditation takes effect on the day stated in the notice given by the governing body to the Board.

Amendment 11 amends clause 73 to clarify that a governing body is not eligible for government funding for a school from the day the surrender of an accreditation takes effect, if after the surrender, the school is not accredited to provide any type of education. For example, if a school accredited for the Preparatory Year to Year 12 surrenders primary education but not secondary education, and the governing body of the school was eligible for government funding for secondary education prior to the surrender, it would continue to be eligible for government funding for secondary education after the surrender of primary education. If the school's accreditation for both primary and secondary education were surrendered, the governing body would no longer be eligible for any government funding for the school.

Amendment 12 amends clause 78(2) to reorder paragraphs (a) and (b) to be consistent with similar provisions in the Bill.

Amendment 13 omits clause 96 and replaces it with a new clause that clarifies that a governing body is not eligible for government funding for a school from the day the cancellation of an accreditation takes effect, if after the cancellation, the school is not accredited to provide any type of education. For example, if a school accredited for the Preparatory Year to Year 12 had its accreditation for primary education cancelled, but not secondary education, and the governing body of the school was eligible for government funding for secondary education prior to the cancellation, it would continue to be eligible for government funding for secondary education after the cancellation of primary education. If both primary and secondary education for the school were cancelled, the governing body would no longer be eligible for any government funding for the school.

Amendment 14 amends clause 119 to correct a minor drafting error.

Amendment 15 amends the heading of chapter 4, part 2, division 3, subdivision 1 to clarify that the power of entry in this subdivision only applies to accredited schools. For schools operating without accreditation, subdivision 2 applies.

Amendment 16 omits and replaces clause 137 to reflect the power to enter only applies to accredited schools.

Amendment 17 amends clause 138(1) to reflect the notice of entry only applies to accredited school's premises.

Amendment 18 amends the heading of chapter 4, part 2, division 3, subdivision 2 to clarify that the power of entry in this subdivision only applies to premises other than accredited schools, for example, schools operating without accreditation.

Amendment 19 amends clause 139 to reflect the power to enter only applies to places other than accredited schools.

Amendment 20 amends clause 151(1)(e) to correct a minor drafting error.