



ELIZABETHAE SECUNDAE REGINAE

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No. 42 of 1975

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

[ASSENTED TO 9TH OCTOBER, 1975]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

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

**2. Commencement.** This Act shall commence on a date appointed by Proclamation.

**3. Arrangement.** This Act is divided into Parts and Divisions of Parts as follows:—

PART I—PRELIMINARY (ss. 1-6);

PART II—BOARD OF TRUSTEES (ss. 7-14);

PART III—BUSINESS OF BOARD (ss. 15-46);

*Division I—General Powers;*

*Division II—Borrowing Powers;*

*Division III—Funds, Accounts and Budget;*

*Division IV—Proceedings;*

PART IV.—GENERAL PROVISIONS (ss. 47-54);

SCHEDULES

**4. Repeals and savings.** (1) The Acts set forth in the First Schedule (in this Act referred to as the "repealed Acts") are repealed.

(2) The public grammar schools established under the repealed Acts and subsisting immediately before the commencement of this Act are hereby preserved, continued in existence and established under this Act.

(3) Where immediately before the commencement of this Act there are trustees of a public grammar school, those trustees shall be deemed to constitute a board of trustees constituted under this Act in the name "Board of Trustees of the (*name of locality*) Grammar School" or, as the case requires, "Board of Trustees of the (*name of locality*) Girls' Grammar School" and each person who is one of those trustees immediately before the commencement of this Act shall continue to hold office as a member of that board in accordance with the terms of his appointment as a trustee, and each board so deemed constituted from time to time in accordance with this Act.

(4) All regulations duly made by trustees of a public grammar school under the repealed Acts and subsisting immediately before the commencement of this Act shall continue to be of force and effect until they are amended or revoked by rules made by the board constituted by the trustees of that school in accordance with this Act.

**5. Interpretation.** (1) In this Act, save where a contrary intention appears—

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

"chairman" means the chairman of a board and includes a person for the time being performing the duties of chairman;

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

"financial year" means the period of 12 months commencing on 1st January in any year;

"Minister" means the Minister for Education and Cultural Activities or other Minister of the Crown who, at the material time, is charged with the administration of this Act and includes a Minister of the Crown who is temporarily performing the duties of the Minister;

"school" means a public grammar school established under the repealed Acts or under this Act.

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

**6. Establishment of new public grammar schools.** (1) At any time when and as often as has been raised or acquired by donation or subscription in any locality for the purpose of establishing a public

grammar school in that locality a sum of not less than \$100 000 or property to the value of not less than that amount, the Governor in Council may approve the establishment in that locality of a public grammar school and assign to it a name, and may direct that there be paid from time to time out of the Consolidated Revenue Fund to a board of trustees to be appointed in accordance with this Act in respect of that public grammar school a corresponding sum not exceeding twice the amount that has been so raised.

The sum paid out pursuant to such direction shall be applied to the erection of suitable buildings for the school so approved and for such other purposes in connexion with the permanent establishment thereof as are from time to time determined by the board so appointed and approved by the Governor in Council.

- (2) Where an approval has been granted pursuant to subsection (1)—
- (a) the sites upon which the school buildings are to be erected;
  - (b) the plans and specifications of the buildings to be erected on those sites; and
  - (c) the method and manner of instruction to be given in that school,

shall be such as are approved by the Governor in Council.

#### PART II—BOARD OF TRUSTEES

**7. Constitution.** (1) For every 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".

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 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 seven members appointed by the Governor in Council by notification published in the Gazette of whom—

- (a) four shall be persons nominated by the Minister;
- (b) three shall be persons who have donated or subscribed to the school in respect of which the board is to be constituted the prescribed amount at the least, elected as prescribed.

The prescribed amount is—

- (c) in the case of a donation or subscription made before the commencement of this Act, \$10;
- (d) in the case of a donation or subscription made after the commencement of this Act, the amount fixed by Order in Council.

(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 chairman; and
- (b) a deputy chairman, who shall be a member other than the chairman.

The chairman shall be the executive member of the board.

The chairman and deputy chairman shall hold their respective offices during their terms of office as members.

(6) When a vacancy occurs in the office of chairman or deputy chairman the board shall elect as prescribed another member to the vacant office.

A person appointed to fill a vacancy in the office of a member who was chairman or deputy chairman shall not by reason only of his appointment be chairman or, as the case may be, deputy chairman.

**8. First appointment of board.** Where pursuant to this Act approval is granted for the establishment of a school, the Governor in Council may, by notification published in the Gazette, appoint a date on or before which a board with respect to that school is to be first constituted under this Act.

The board shall be constituted as prescribed on or before the date so appointed.

Upon the appointment of the total number of members of the board, it shall be duly constituted on and from the date notification of that appointment is published in the Gazette.

**9. Disqualification from office.** A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (b) has been convicted in Queensland of an indictable offence or elsewhere than in Queensland in respect of an act or omission that if done or made by him in Queensland would have constituted an indictable offence, unless the board is of the opinion that the circumstances of the offence do not warrant disqualification from office;
- (c) is a patient within the meaning of the *Mental Health Act 1974*, shall not be capable of being or continuing to be a member of a board.

**10. Tenure of office.** (1) A member of a board shall be appointed for a term of four years but, if by the expiration of that term his successor has not been duly appointed, he shall, subject to this Act, hold office until his successor is duly appointed.

A member of a board shall, if he is otherwise qualified, be eligible for re-appointment as a member.

(2) 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.

(3) 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 his office by writing signed by him furnished to the Minister;
- (d) is absent without prior leave granted by the board from three consecutive meetings of the board of which due notice has been given to him;
- (e) ceases to be qualified to be a member;
- (f) is removed from office as a member by the Governor in Council.

(4) 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) When a vacancy occurs in the office of a member of a board during the term of office of the members then constituting the board, the Governor in Council shall, by notification published in the Gazette, appoint a date on or before which a person is to be appointed to fill that vacancy.

The appointment of a person to fill such a casual vacancy shall, save in the case of an elected member, be made as prescribed on or before the date so appointed.

In the case of an elected member, such a casual vacancy shall be filled by the appointment as prescribed 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 the prescribed amount at the least.

(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 his predecessor was appointed and shall, if otherwise qualified, be eligible for re-appointment as a member of that board.

**12. Failure to elect.** If within the time prescribed or appointed 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 connexion with that school;
- (c) to effect general improvements to the premises used or to be used for or in connexion with that school;
- (d) to provide in that school courses of instruction;
- (e) to make with the approval of the Governor in Council in relation to the school for which the board is constituted rules, not inconsistent with this Act, providing for or with respect to—
  - (i) fees to be paid by or on behalf of students enrolled thereat;
  - (ii) the management and control thereof;
  - (iii) the discipline and conduct of students enrolled thereat.

### PART III—BUSINESS OF BOARD

#### *Division I—General Powers*

**15. Powers and duties generally.** A board shall have and may exercise and perform such powers, authorities, functions and duties as are conferred or imposed upon it by or under this Act.

**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 connexion with the exercise and performance of its powers, authorities, functions and duties.

(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;
- (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, authorities, functions and duties.

(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 duties on behalf of the board for the purposes of this Act.

**19. Superannuation scheme.** A board—

- (a) may contribute to and maintain any superannuation or provident schemes established at the commencement of this Act for the benefit of employees of the board or their dependants;
- (b) may establish, contribute to, maintain or join in establishing, contributing to or maintaining such superannuation or provident schemes as it thinks fit for the benefit of its employees or their dependants;
- (c) may vary or join in varying a superannuation or provident scheme to which it contributes or that it maintains, either alone or with others, whether the scheme was established before or after the commencement of this Act.

*Division II—Borrowing Powers*

**20. Power to borrow.** (1) Subject to this Act, a board may from time to time borrow money—

- (a) from the Treasurer;
- (b) by the sale of debentures, bonds or inscribed stock; or
- (c) partly in one and partly in another of the ways specified in subparagraphs (a) and (b).

(2) Before entering into negotiations to borrow money in any way specified in subsection (1), a board shall obtain the sanction of the Treasurer to enter into those negotiations and for that purpose shall forthwith furnish to the Treasurer such information as he requires.

(3) A board shall not borrow money pursuant to negotiations sanctioned by the Treasurer without the authority of the Governor in Council given by Order in Council first had and obtained.

The Order in Council shall declare—

- (a) the amount of money that may be borrowed;
- (b) the purposes for which the money is to be borrowed;
- (c) the currency of the loan;
- (d) the amount of interest payable on the loan;
- (e) the terms and conditions for the redemption of the loan, whether by yearly, half-yearly or quarterly payments or by payments into a sinking fund; and
- (f) such other conditions as the Governor in Council thinks fit to impose.

**21. Procedure before borrowing.** Before proceeding to borrow money a board—

- (a) shall, at a special meeting of the board called for the purpose, pass a resolution to borrow that money;
- (b) shall cause to be prepared—
  - (i) plans and specifications of the projects or full details of any other undertakings for which the money to be borrowed is required;
  - (ii) an estimate of the cost of those projects or other undertakings;
  - (iii) a statement showing details of the proposed expenditure of the money to be borrowed.

**22. Application of loan moneys.** All moneys borrowed by a board shall be expended for the purposes for which the board was authorized to borrow those moneys and not otherwise.

If any moneys comprising a loan remain unexpended upon the completion of the purposes for which the moneys were borrowed, that amount shall be applied as the Treasurer directs.

**23. Repayment of Treasury loans.** (1) Every loan advanced by the Treasurer under the provisions of this Act shall be liquidated by payment to the Treasurer by the board concerned on the first days of January and July respectively in each year, of such instalments of principal and interest at the prescribed rate as will permit the loan to be wholly redeemed within the prescribed period of the loan, until all moneys advanced from time to time by the Treasurer, together with interest thereon, have been paid.



The Treasurer may at any time make any adjustment that he considers necessary to be made with respect to the period of any loan or the calculation of interest thereon or with respect to any other matter in connexion with any loan.

(2) In February and August in each year the Treasurer shall cause to be published in the Gazette in relation to any loan advanced by the Treasurer to a board under this Act, in respect of which payment of any instalment is overdue and in arrear, a statement specifying both the amount of money comprising instalments overdue and in arrear and the principal sum remaining unpaid on the last days of January and July respectively last preceding.

If thereafter on the last days of April and October respectively next following, any moneys remain unpaid to the Treasurer on account of such loan or on account of moneys paid by the Treasurer under a guarantee given by him in respect of any loan advanced by him to a board under this Act, the Treasurer may, by notification published in the Gazette, specify the amount then owing and may, by that notification, appoint a receiver to collect on the Treasurer's behalf and to pay to the Treasury moneys due and owing to that board to the amount so specified.

(3) A receiver may be appointed under this section in respect of the revenues of a board generally or of specified income.

Upon his appointment, the receiver shall from the date stated in the notification be the only person legally entitled to receive the revenues of the board in respect of which he is appointed or, if he is appointed receiver only in respect of specified income, to receive that income and shall be deemed to that extent and for that purpose to be a public accountant within the meaning of the *Audit Act 1874-1968*.

(4) The Treasurer may from time to time make such orders and give such directions with respect to the powers and duties of a receiver appointed under this section and the management by the receiver of the affairs of the board in respect of which he is appointed as the Treasurer thinks fit and judicial notice shall be taken of those orders and directions.

**24. Debentures, bonds and stock.** (1) All debentures, bonds and inscribed stock issued under the authority of this Act—

- (a) shall be issued in such series or sold in such amounts or parcels at such times and places in or outside the State or in such manner as the board concerned thinks fit;
- (b) shall with interest thereon be charged and secured upon the assets and revenues of the board concerned subject to any prior debentures, bonds or stock issued according to law;
- (c) shall bear interest at such rate and be redeemable at such date or dates and at such place or places in or outside the State as are specified therein;
- (d) may, in the case of debentures or bonds, with the consent of the holder thereof or in the case of inscribed stock of the registered owner thereof, be paid off at any time previous to the due date thereof (at not more than the amount of the

principal sum remaining unpaid at the time or with the consent of the Governor in Council at a premium) with interest thereon to the date of payment only.

(2) Interest secured by debentures, bonds or stock shall be payable at such times and at such places in or outside the State as are specified therein.

(3) (a) Every debenture issued under the authority of this Act—

(i) shall be sealed with the seal of the board concerned and signed by the chairman and secretary and when so sealed and signed shall be taken to be duly issued;

(ii) shall be numbered consecutively so that no two debentures in a series bear the same number; and

(iii) shall have set forth therein the places and dates at which the principal and interest are payable.

(b) Every debenture issued under the authority of this Act may at the option of the lender have annexed to it for every payment to become due thereon (whether of principal or interest or principal and interest) a coupon and that debenture and coupon shall, unless the Governor in Council has otherwise determined when authorizing the loan concerned, be transferable by delivery and payment to any person in possession of that debenture or coupon of the sum named therein shall discharge the board concerned from all liability with respect to that debenture or coupon.

Where a debenture or coupon is not transferable by delivery that fact shall be stated on it.

(c) In the case of a debenture issued under the authority of this Act with coupons, the holder of a coupon, whether it be separated from the debenture or not, shall be entitled to receive payment from the board concerned of the sum named therein upon presentation on or after the due date for payment at the place where the coupon is expressed to be made payable.

(d) In the case of a debenture issued under the authority of this Act without coupons, the lender or, in the event of a transfer of the debenture, the transferee for the time being shall, subject to this paragraph (d), be entitled to receive payments from the board concerned in respect of principal or interest or both, in accordance with the terms and conditions of the debenture.

A transferee with respect to whom the board has not been given notice as prescribed shall not be entitled to receive and that board shall not be liable to make to that transferee any payment in respect of any debenture issued without coupons, save under attachment by process of law and then only to the extent of moneys payable to that transferee under the debenture and unpaid by that board to the lender or a prior transferee.

The entitlement of a transferee with respect to whom the board concerned has been given notice as prescribed to receive a payment in respect of a debenture issued without coupons shall be subject to any payment that, having become payable under that debenture before that board was given notice, was made by it to the lender or a prior transferee.

In this paragraph (d) the expression "notice as prescribed" means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the board.

(e) A lender of money to a board may agree to accept a standard form of debenture but shall not be bound to do so.

(f) A person lending money to a board and receiving in consideration therefor debentures duly issued and, in the event of a transfer of debentures so issued, the transferee for the time being shall not be bound to enquire whether the issue of those debentures was in fact duly authorized or into the application of the money so lent or be in any way responsible for the non-application or misapplication thereof.

(4) A board or an officer, servant or agent thereof shall not receive and shall be deemed not to have received notice of any trust express, implied or constructive with respect to debentures, bonds or inscribed stock issued under the authority of this Act and that board, officer, servant or agent shall not be bound to see to the execution of any such trust to which such debentures, bonds or inscribed stock may be subject.

**25. Brokerage.** A board may, but only with the approval of the Treasurer and upon such terms and conditions as he thinks fit, pay moneys for brokerage with respect to making, procuring, negotiating or obtaining any loan.

Section 14 of the *Money Lenders Act 1916-1973* does not apply or extend to brokerage that a board is authorized by this section to pay.

**26. Remedies of bond, stock and debenture holders.** If a board defaults in making a payment whether of principal or interest to the holder of a bond, debenture or coupon issued or stock inscribed by the board under the authority of this Act, that holder may make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and the Court shall have power to make all such orders for the appointment of the receiver and for his removal and the appointment of another in his stead as are necessary, and to make any further orders and give any directions that the Court thinks proper.

A receiver appointed pursuant to this section—

- (a) may be appointed in respect of the revenues of a board generally or of specified income thereof;
- (b) shall be deemed to be an officer of the Court;
- (c) shall act under the direction of the Court.

**27. Remuneration, powers and duties of a receiver.** (1) A receiver appointed by the Treasurer pursuant to section 23 shall be entitled to such commission or remuneration for his services as the Treasurer orders.

A receiver appointed by the Supreme Court pursuant to section 26 shall be entitled to such commission or remuneration for his services as the Court orders.

The commission or remuneration of a receiver shall be payable out of the revenues of the board in respect of which he was appointed.

(2) A receiver, whether appointed by the Treasurer or the Supreme Court, may collect all the revenues payable to the board in respect of which he was appointed or, in the case of his appointment in respect of specified income, all that income and for the purposes of this section a receiver shall be deemed to be that board and may exercise all the powers of that board.

A receiver shall apply all moneys received by him in the course of his receivership as follows:—

- (a) firstly in payment of the costs, charges and expenses of collection and his commission or remuneration;
- (b) secondly—
  - (i) if he was appointed by the Treasurer, in payment of the amount due and owing to the Treasurer together with interest on that amount at such rate as is specified by the Treasurer;
  - (ii) if he was appointed by the Supreme Court upon the application of a holder of a bond, debenture or coupon issued or stock inscribed by the board concerned, in payment, subject to any order of the Court, to that holder or to and amongst the holders of bonds, debentures or coupons of the same series as that holder or of inscribed stock or to the holders of bonds, debentures or coupons or inscribed stock generally in such order of priority as the Court thinks fit, of the amount due and owing to that holder or, as the case may be, those holders;
- (c) thirdly in payment of the residue to the board concerned.

**28. Recovery of moneys as debt.** If a board defaults in making a payment referred to in section 26, the person to whom that payment should have been made may recover the amount thereof as a debt by action against the board in any court of competent jurisdiction.

The remedy conferred by this section is in addition to the remedy conferred by section 26.

**29. Illegal borrowing.** (1) A person who lends money to a board otherwise than in accordance with this Act or some other Act shall have no remedy or right of any kind to recover money from the board in respect of that loan.

(2) If a board borrows money that it is not authorized under this Act or some other Act 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.

(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.

In any action brought under this subsection, the Treasurer shall be entitled to costs as between solicitor and client and he shall pay any amount recovered as a result of that action into the fund concerned.

(4) The provisions of this section shall be construed so as not to prejudice the operation of section 24 (3) (f).

**30. Advances by way of overdraft.** A board may for temporary financial accommodation obtain advances from any bank or banks by way of overdraft on the general fund.

A board shall not, during any financial year, suffer the amount of its overdraft to exceed the amount for the time being prescribed.

**31. Board to be local body.** A board shall be a local body under and within the meaning of the *Local Bodies' Loans Guarantee Act 1923-1973* and the provisions of that Act shall, subject to such modifications as the Governor in Council prescribes (whether generally or in respect of a particular loan or advance), apply and extend accordingly.

**32. Regulations with respect to loans.** The power conferred upon the Governor in Council by section 53 to make regulations includes the power to make regulations for or with respect to the raising and repayment of loans under the authority of this Act and without limiting the generality of that power—

- (a) the establishment of a registry at any place for the inscription of stock created and issued and the keeping of stock ledgers: regulating the inscription in stock ledgers kept of all stock issued, the transfer or transmission of stock or any shares therein, the amount of stock that may be transferred;
- (b) the form of and the manner of the issuing of bonds and debentures: the keeping and inspection of and the taking of copies of or extracts from registers of bonds and debentures or stock ledgers; lost or defaced bonds, debentures or stock certificates, the issue of duplicates thereof and the destruction of discharged bonds, debentures or stock certificates;
- (c) the issue upon request of stock to bond or debenture holders and of bonds or debentures to registered owners of stock;
- (d) the raising of loans outside the State;
- (e) the fees payable and the purposes for which those fees are payable;
- (f) sinking funds or other methods for the repayment of moneys borrowed; debt redemption funds and trustees thereof; powers, authorities, functions and duties of those trustees.

*Division III—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; and
- (d) such other funds as are prescribed.

The funds shall be separate and distinct and separate bank accounts 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.

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 connexion with the proper exercise and performance of its powers, authorities, functions and duties and in fulfilling any prescribed 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.

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.

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 authorized 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 authorized by him 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.

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

(b) in his opinion fairly set out the financial transactions of the board for the period to which they relate.

(4) (a) 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 he 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.

(b) A copy of any report and recommendations made pursuant to paragraph (a) 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 authorized by him 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 he 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 his annual report to Parliament such matters with respect to the financial transactions of a board as he thinks fit.

**35. Budget.** (1) Before 28th 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 31st December next following in the proper exercise by the board of its functions under this Act;
- (b) the amount to be received by the board during the year ending on 31st 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) (a) The form of budget of a board shall consist of two parts—

- (i) the administration of the school in respect of which the board is constituted; and
- (ii) annual charges in respect of interest on and redemption of loans.

(b) The estimated receipts and disbursements of a board, so far as is practicable—

- (i) shall be grouped in relation to the respective functions of the board; and
- (ii) shall be itemized 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.

(c) 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 28th 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.

**37. Investment of moneys.** (1) A board may, from time to time, invest moneys standing to the credit of any fund kept by it under section 33 and not required for the time being for the purposes of this Act in any investment authorized by the *Trusts Act* 1973 or upon security with an approved dealer or upon such other security or investment as the Treasurer approves.

(2) Every security or safe custody acknowledgement or other document evidencing title issued in respect of any investment shall be held by the board.

(3) For the purposes of this section the expression "approved dealer" means a person who—

(a) is an authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as a lender of last resort; and

(b) is approved by Order in Council.

(4) The powers conferred on a board by this section shall not be exercised by a board in relation to moneys standing to the credit of the trust fund if in respect of those moneys—

(a) the instrument creating the trust directs expressly to the contrary; or

(b) the exercise of the powers constitutes a breach of a condition under which those moneys were acquired.

#### *Division IV—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, authorities, functions and duties 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 every member of a board at least seven days prior to the date appointed for that meeting.

Where circumstances exist that, in the opinion of the chairman or two members of a board, constitute an emergency, the chairman or, as the case may be, two members may call a meeting of the board and that meeting may be held without notice having been given as prescribed.

A notice of a meeting or an adjourned meeting may be given to a member by prepaid post letter addressed to his place of business or residence last known to the chairman.



(3) The members present at a meeting of a board may from time to time adjourn the meeting.

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 two 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 seven days from the date of the adjournment.

The provisions of this subsection 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 chairman shall preside at each meeting of a board at which he is present and in his absence the deputy chairman if present shall preside.

If both the chairman and deputy chairman are absent from a meeting, a member of the board elected at that meeting shall preside.

A member of the board elected to preside at a meeting shall, while he presides, have all the powers, functions, duties and immunities of the chairman.

**41. Conduct of affairs.** A board shall exercise or perform a power, authority, function or duty by a majority vote of its members present at the meeting and voting on the business in question.

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.

The chairman shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

**42. Custody of seal.** 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 chairman.

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.

Where that person is the secretary to the board, the common seal shall be affixed in the presence of the chairman.

**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 chairman or by the secretary to the board at the chairman's direction.

**44. Register of donors and subscribers.** 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.

The secretary to a board shall from time to time remove from the register the names and other registered particulars of donors or subscribers who have died and make such alterations and amendments to the register as the board directs.

The register shall at all reasonable times be open to inspection by any person at the office of the secretary.

**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 authorizing the act or proceeding.

**46. Rules applicable to election of members.** (1) The rules set forth in the Second Schedule shall apply with respect to every election of members to a board and shall be observed by the board and all persons concerned.

(2) The Governor in Council may from time to time, by Order in Council, amend the rules set forth in the Second Schedule by adding to, deleting from, altering or varying the provisions thereof.

The schedule as so amended is the Second Schedule for the time being.

#### PART IV—GENERAL PROVISIONS

**47. Endowment.** There shall be paid to a board each year out of the Consolidated Revenue Fund such sums as are appropriated by Parliament for the purpose.

**48. Disposal of assets upon discontinuance of school.** (1) Upon the discontinuance of a school, the Governor in Council may prescribe by Order in Council the manner in which property (other than Crown land granted in trust or reserved and set apart for the purposes of the school under the *Land Act* 1962–1975) held by the board constituted with respect to the school shall be disposed of or held.

Property to which this section refers shall be disposed of in such manner or, as the case may be, held upon such trusts as the Governor in Council prescribes or, so far as he has not prescribed, as the Minister directs.

For the purposes of this section, the Governor in Council or the Minister may, in respect of property held in trust, prescribe or, as the case may be, direct such variations in the person of the trustee, the beneficiary under or purpose of the trust or otherwise as he considers just.

All persons shall give effect to a direction of the Minister under this section.

(2) The provisions of this section shall be construed and applied so as not to override any instrument creating the trust upon which property to which this section refers was held that provides for the variation of that trust upon the discontinuance of the school concerned.

**49. Inspection of schools.** The Governor in Council may from time to time, by notification published in the Gazette, appoint persons to be inspectors of public grammar schools.

Inspectors so appointed shall at such times and in such manner as the Minister directs carry out inspections of schools established under this Act or under the repealed Acts and make reports to him thereon.

**50. Power of delegation.** (1) 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, functions and duties under this Act (save this power of delegation, its powers, functions and duties with respect to the making of rules 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.

(2) A delegation under this section may be varied or revoked by resolution of a board and does not prevent the exercise or performance by the board of any of its powers, functions or duties.

(3) A power, function or duty delegated by a board, if exercised or performed by the delegate, shall be exercised or performed in accordance with the resolution of delegation.

(4) A delegation may be made subject to such terms and limitations as the board thinks fit and included in the resolution of delegation including a requirement that the delegate shall report to the board upon his exercise or performance of the delegated power, function or duty.

(5) A board may by resolution make such and so many delegations of the same power, function or duty and to such number of persons as it considers necessary or desirable.

**51. Validation of acts done.** Any act or thing done by a trustee appointed under the repealed Acts with respect to a public grammar school established under the repealed Acts in purported exercise of the powers conferred upon him by or under those Acts shall be taken to be and to have always been done validly and effectually for all purposes notwithstanding any defect in the appointment or procedure of that trustee.

**52. Validation of regulations.** The Grammar Schools Inscribed Stock Regulations of 1962 (published in the Gazette dated 15th January 1962 at pages 111 to 150 inclusive) made in purported exercise of the powers conferred by or under the repealed Acts are, and it is hereby declared always were, valid and shall be deemed to have been made under the authority of the repealed Acts.

**53. Regulations.** The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters required or permitted by this Act to be prescribed and all matters that, in the

opinion of the Governor in Council, are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.

A regulation may impose a penalty not exceeding \$100 for a breach of that regulation or any other regulation.

**54. Orders in Council.** Section 28A of the *Acts Interpretation Act* 1954–1971 shall apply with respect to Orders in Council made for the purposes of this Act and, for the purposes of such application, that section shall be read and construed as if references therein to regulations were references to Orders in Council made for the purposes of this Act.

## FIRST SCHEDULE

[s. 4]

Year and Number of Act	Short Title
24 Vic. No. 7 .. .. .	<i>Grammar Schools Act of 1860</i>
28 Vic. No. 8 .. .. .	<i>Grammar Schools Act Amendment Act of 1864</i>
55 Vic. No. 5 .. .. .	<i>The Grammar Schools Act Amendment Act, 1891</i>
64 Vic. No. 30 .. .. .	<i>The Grammar Schools Act Amendment Act, 1900</i>
11 Eliz II No. 3 .. .. .	<i>The Grammar Schools Acts Amendment Act of 1962</i>

## SECOND SCHEDULE

[s. 46]

## RULES FOR ELECTION OF MEMBERS OF A BOARD

**1. Time for election.** An election of members of a board required to be elected under this Act shall be held as and when necessary.

**2. Returning officer.** For the purpose of first constituting a board, the Minister shall appoint a returning officer to take the poll at the election of members of a board.

For the purpose of an election of members of a board subsequent to the first constitution of the board, the secretary to the board shall be returning officer.

**3. Roll of Electors.** (1) The persons who shall be electors for the purpose of electing members of a board pursuant to section 7 (4) (b) shall themselves be qualified to be elected pursuant to that provision.

(2) The roll of electors—

- (a) in the case of an election in respect of the first constitution of a board, shall be compiled by the returning officer appointed by the Minister and shall consist of the names of those persons known to be qualified pursuant to section 7 (4) (b) to be elected;

- (b) in the case of an election in respect of a subsequent constitution of a board, shall be compiled by the secretary to the board from the register kept by the board pursuant to section 44 and shall consist of the names of those persons qualified pursuant to section 7 (4) (b) to be elected whose names appear in the register.

(3) The roll shall show in alphabetical order and numbered consecutively the names of persons entitled to vote at the election, and shall be signed and dated by the returning officer.

The roll so signed and dated shall be the roll for the purpose of the election and shall be conclusive evidence of the entitlement of any person named therein to vote at that election.

A person whose name is not on that roll shall not be entitled to vote at that election.

**4. Notice of dates of nomination and poll.** Immediately upon the compilation of the roll, the returning officer shall send by post to every person named therein a notice wherein—

- (a) he shall specify the respective dates of nomination for and of taking the poll for the election; and
- (b) he shall require candidates for the election to be nominated as prescribed by these rules at the place named in the notice.

In respect of every election, the date for nomination shall be a day—

- (c) not less than 10 nor more than 21 days after the sending of the notice; and
- (d) not less than 7 nor more than 28 days before the date for taking the poll.

**5. Nominations.** A person shall not be a candidate for an election unless—

- (a) he is enrolled on the roll provided for in these rules;
- (b) he is nominated as a candidate by at least two persons other than himself who are likewise enrolled;
- (c) there is furnished to the returning officer at the place named in the notice prescribed by rule 4 of these rules before noon on the date for nomination a nomination naming that person as a candidate for the election, signed by the persons nominating him and endorsed under his signature with his consent to the nomination.

**6. Result on nomination only of number to be elected.** If the number of candidates for an election does not exceed the number of members of a board to be elected at that election, the returning officer shall, on the date for nomination or as soon thereafter as practicable and at the place of nomination, declare such candidates to be elected to the board concerned and thereupon they shall be deemed to be duly elected.

**7. Poll for determination of membership of board.** (1) If the number of candidates for an election exceeds the number of members of a board to be elected at that election, the returning officer immediately—

- (a) shall cause to be prepared a sufficient number of ballot-papers containing the surnames of the candidates in alphabetical order and their christian names and at the head a statement

that the paper is a ballot-paper for the election of members of the Board of Trustees of the ( ) Grammar School (*stating the number of members to be elected and the name of the school*) and at the foot thereof the following direction:—

“Record your vote by striking out the names of all candidates save those of \_\_\_\_\_ candidates” (*stating the number to be elected*).; and

- (b) shall send by post to every person entitled to vote at the election such a ballot-paper, initialled by the returning officer, together with an unsealed prepaid post envelope addressed to the returning officer at the place of nomination and endorsed “Ballot-paper, Board of Trustees of the \_\_\_\_\_ Grammar School (*naming the school*).”.

(2) The returning officer shall ensure that no marks or writings other than those prescribed by sub-rule (1) of this rule appear on any ballot-paper sent by him pursuant to that sub-rule.

(3) The returning officer shall not issue a duplicate ballot-paper or a second ballot-paper in respect of the same election to any person.

**8. Voting.** A person to whom a ballot-paper has been forwarded who is desirous of voting shall record his vote on the ballot-paper received by striking out the names of all candidates save those of the candidates for whom he desires to vote. A person, after voting, shall place the ballot-paper in the accompanying envelope, seal the envelope and send it by post to the returning officer.

**9. Counting and declaration of poll.** (1) The returning officer shall, until noon on the date appointed for taking the poll, keep unopened and in a secure place all envelopes referred to in rule 8 of these rules received by him through the post prior to that hour.

(2) At noon on the date appointed for taking the poll or as soon thereafter as is practicable, the returning officer shall open all envelopes referred to in sub-rule (1) of this rule and examine and count the number of votes recorded for each candidate.

(3) The returning officer shall not include in the count—

- (a) a ballot-paper that was not received by him prior to noon on the date appointed for taking the poll; and  
(b) a ballot-paper that is not initialled and marked as prescribed by these rules.

(4) (a) The returning officer shall, as soon as practicable after completing the examination and count of votes, declare the candidate who has received the highest number of votes to be elected and, if there be more than one candidate required to be elected at the election, shall declare the candidate who has received the next highest number of votes to be elected.

(b) If the number of votes received by any two or more candidates is equal, the returning officer shall decide by his vote which one or more of them, as the case requires, shall be elected but, save as is prescribed by this paragraph (b), the returning officer shall not be entitled to vote.

**10. Report of poll.** Immediately upon the declaration of a poll, the returning officer shall report the names of the candidates thereby elected—

- (a) in the case of the first constitution of a board, to the Minister;  
and
- (b) in the case of any other election, to the board concerned.

**11. Expenses of election.** All expenses reasonably incurred by a returning officer in connexion with an election and a reasonable fee to him for services rendered, approved by a board shall be defrayed out of the general fund of the board concerned.