

EDUCATION AND OTHER LEGISLATION AMENDMENT BILL 1997

EXPLANATORY NOTE

SHORT TITLE OF THE BILL

The short title of the Bill is the *Education and Other Legislation Amendment Bill 1997*.

POLICY OBJECTIVES OF THE BILL AND REASONS FOR THOSE OBJECTIVES

There are several primary policy objectives of the Bill.

The first primary policy objective of the Bill is to provide for the establishment and operation of school councils for certain State schools. It is the Government's intention that the operation of a school council for a school will enable the school community to be involved in deciding the broad strategic direction of the school, leaving the school's principal with authority to manage, amongst other things, the day to day operations of the school and its curriculum program.

The second primary policy objective of the Bill is to set up a school management regime that is more school-based in so far as the *Education (General Provisions) Act 1989* is concerned. It is the Government's intention to build on a long-term trend to devolve more responsibility to local school communities by the establishment of school councils and by the introduction of a more school-based management legislative regime.

The next primary policy objective of the Bill is to regulate the allocation of semesters of State education. It is the Government's aim, in the interests of fairness, to set the number of semesters of State education available to all students.

The fourth primary policy objective of the Bill is to extend the powers and information available to the Board of Teacher Registration. The Government's aim is to better protect the welfare of Queensland school

children, and enhance public assurance in the protection and welfare of those children.

The final primary policy objective of the Bill is to enhance the way parents and citizens associations operate in so far as the *Education (General Provisions) Act 1989* is concerned.

The Government considers that these five primary policy initiatives will facilitate, amongst other things:

- (a) improved student learning outcomes; and
- (b) improved partnership arrangements within school communities; and
- (c) improved school management; and
- (d) continuation of the devolution of more responsibility to local school communities through school-based management, with a transfer to individual schools of greater responsibility and accountability; and
- (e) more socially just treatment of all students, both disabled and non-disabled, in their access to State education; and
- (f) improvements in the protection and welfare of Queensland school children, and enhanced public assurance for the protection and welfare of those children, particularly with regard to paedophilia; and
- (g) enhancements in the management and operation of parents and citizens associations.

**THE WAY THESE POLICY OBJECTIVES WILL BE
ACHIEVED AND WHY THIS WAY OF ACHIEVING THE
OBJECTIVES IS REASONABLE AND APPROPRIATE**

The primary policy objective of the Bill is to be achieved mainly by:

- (a) establishing school councils in certain State schools; and
- (b) devolving more responsibility to principals and local school communities for the management of State educational institutions; and
- (c) setting out fair and equitable allocations of State education for all

students, disabled and non-disabled, in their access to State education; and

- (d) putting into place more authorities for the Board of Teacher Registration to inform itself and to be informed by others about those matters which are relevant to an application for, or the continuation of, registration as a teacher in Queensland; and
- (e) improving the management and operation of parents and citizens associations.

The Government believes that this way of achieving the policy objectives is reasonable and appropriate as implementation of the Bill, when passed: will assist significantly in improving student learning outcomes and school management; will improve partnership arrangements within school communities; will build on the long-term trend to devolve more responsibility to local school communities; will improve social justice for all students in their access to State education; will improve the management of parents and citizens associations; and will improve the protection and welfare of Queensland school children particularly with regard to paedophilia.

ALTERNATIVE WAY OF ACHIEVING THE POLICY OBJECTIVES

There are no appropriate or reasonable alternative ways of achieving the policy objectives. Further, each of the policy objectives dealt with in the Bill is required to be effected by legislation.

ADMINISTRATIVE COSTS FOR GOVERNMENT IMPLEMENTATION OF THE BILL

While there will be on-going savings in administrative costs to Government in the implementation of particular initiatives provided for in the Bill, there will be some administrative costs associated with effecting several of the proposals.

By way of illustration, it is expected that substantial savings will accrue to Government from the implementation of school-based management, and there may be on-going administrative costs in connection with the establishment and operations of school councils, however, these will be met

by extant school budget allocations.

On balance, it is considered at this time that any other administrative costs as a consequence of effecting the Bill will be met within current budget allocations.

It is estimated at this time that there will be no additional costs to Government.

CONSISTENCY WITH FUNDAMENTAL LEGISLATIVE PRINCIPLES

Care has been taken in the drafting of the Bill to ensure that no aspects of the Bill infringe upon fundamental legislative principles.

CONSULTATION

Extensive consultation has taken place with key stakeholders including employee organisations in the preparation of the Bill.

PURPOSE AND INTENDED OPERATION OF EACH CLAUSE OF THE BILL

PART 1—PRELIMINARY

Clause 1 sets out the short title of the proposed Act.

Clause 2 provides for the commencement of the various provisions of the proposed Act on a day to be fixed by proclamation.

PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981

Clause 3 specifies that the intention of this part of the Bill is to amend the *Associations Incorporation Act 1981*.

Clause 4 amends section 5 (Eligibility for incorporation) of the Act. The clause prevents school councils from being incorporated under the Act. The treatment of school councils in this regard is the same as for parents and citizens associations.

PART 3—AMENDMENT OF CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986

Clause 5 specifies that the intention of this part of the Bill is to amend the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Clause 6 amends section 9A (Disclosure of particulars in special cases) of the Act. This clause includes elected members (other than an elected student member) of school councils and appointed members of school councils as persons who will be obliged to disclose any offences committed outside the rehabilitation period, as defined by the Act.

PART 4—AMENDMENT OF CRIMINAL LAW (SEXUAL OFFENCES) ACT 1978

Clause 7 specifies that the intention of this part of the Bill is to amend the *Criminal Law (Sexual Offences) Act 1978*.

Clause 8 amends section 8 (Exempted reports) of the Act. Subsection (1)(c) is amended to include a report made to or on behalf of the Board of Teacher Registration as an exempt report under section 6 (Publication at large of complainant's identity prohibited) and section 7 (Publication prematurely of defendant's identity prohibited).

PART 5—AMENDMENT OF *EDUCATION (GENERAL PROVISIONS) ACT 1989*

Clause 9 specifies that the intention of this part of the Bill is to amend the *Education (General Provisions) Act 1989*.

Clause 10 amends section 3 (Interpretation) of the Act. The clause defines certain new words used in the Bill and replaces definitions of particular existing words used in the Act.

Clause 11 inserts a new section 3A (Definitions relating to special education), 3B (References to student when student is minor or under other legal disability) and 3C (Meaning of “basic allocation”, “remaining allocation” etc) that define or clarify certain terms used in the Act and particularly in new part 6.

Clause 12 amends section 6 (Power of Minister to be member of committees etc.) of the Act. Currently the word “council” is used in subsections (1), (3) and (4) to be a body like the others mentioned in those subsections, *viz.*: committee, group and body. Given the proposed use of the term “school council”, it is considered that leaving the word “council” in subsections (1), (3) and (4) would be confusing. The meaning of section 6 will not sacrifice anything by omission of the word.

Clause 13 amends section 10 (Delegation by Minister) of the Act to ensure the powers of the Minister under new section 56H (Dealing with submissions against removal) are not able to be delegated. Section 56H deals with making submissions to the Minister about removal from membership and from office of a parents and citizens association.

Clause 14 amends section 12 (Provision of State education) by omitting subsections (2), (3) and (4), and inserting a new subsection (2) that states that a program of instruction must be based on the basic allocation to a student.

Clause 15 inserts a new section 12A (Special education) that provides as a separate section the matters previously contained in subsections (2), (3) and (4) of section 12 (Provision of State education) recast in more appropriate terms.

Clause 16 amends section 15 (Establishment of school support centres, student hostels and residential colleges and other State educational

institutions) of the Act. The clause removes the current requirement that the Minister is only able to establish and conduct centres for the support and development of teachers and other officers of the department, student hostels and residential colleges and other State educational institutions upon the approval of guidelines in that behalf by the Governor in Council.

Clause 17 amends section 19 (Use of State educational institutions) of the Act. The clause removes the current requirement that any conditions for the use of a State educational institution are to be prescribed by regulation. In the future, the Minister (or an officer or class of officer authorised by the Minister) is to be able to set any conditions for the use of any, some or all State educational institutions.

Clause 18 amends section 22 (State educational institutions may be discontinued) of the Act. The clause amends subsections (1) and (2) of section 22 as a consequence of the amendment to section 15 (State educational institutions may be discontinued). Subsection (2) is redundant and is to be omitted by the Bill.

Clause 19 amends section 28 (School records and reports) of the Act to omit the requirement at subsection (1) that a regulation is to prescribe the school records and reports to be kept by State schools. The clause inserts a new subsection (1) that requires a principal of a State school to comply with the Director-General of Education's direction about the school records that must be kept, the reports about the school that must be given, and the times by which, and the way in which, the records must be kept or reports given.

Clause 20 omits section 29 (Hours of instruction). The removal of section 29 from the Act and the consequential amendments to sections 57 and 62 regularises and simplifies the legislation in relation to hours of instruction in schools.

Clause 21 inserts a new part in the Act, *viz.*: part 3B (School councils).

The clause inserts a new division in new part 3B (School councils), *viz.*: division 1 (Object of part).

The clause inserts a new section 30W (Object) that sets out the objectives of part 3B (School councils). The objects relate to improving student learning outcomes by the establishment of school councils.

The clause inserts a new division in new part 3B (School councils), *viz.*: division 2 (Establishment, name, functions and other matters).

The clause inserts a new section 30X (Establishment) that authorises the Director-General of Education to establish a school council for a State school. The Director-General, however, is not permitted under the Bill to establish a school council that will have functions applicable to more than 1 school.

The clause inserts a new section 30Y (Name) that regulates how a school council is to be named.

The clause inserts a new section 30Z (Functions) that sets out the functions to be performed by school councils. The functions are strategic in nature and are not about the day to day management of the school. The key functions are:

- (a) monitoring the school's strategic direction;
- (b) approving:
 - (i) plans and school policies of a strategic nature;
 - (ii) other documents affecting strategic matters, including the annual estimate of revenue and expenditure for the school;
- (c) monitoring the implementation of the plans, school policies and other documents mentioned in (b) immediately above;
- (d) advising the principal about strategic matters.

As will be seen from the new section 30ZA (School councils do not have certain powers) a school council will not be authorised to have control of funds. It is intended that school finances will remain at all times under the authority of the Department of Education, through the school principal, under the *Financial Administration and Audit Act 1977*. The implementation, therefore, of any plan, school policy or other document approved by the school council will be contingent upon, amongst other things, the availability of Department of Education funding. By way of two specific examples, the annual estimate of revenue and expenditure for a particular school (i.e. the school budget) approved by the relevant school council is to be subject to the availability of Department of Education funding and confirmation by the principal's supervisor, and, capital works activities at the school are to be subject to the physical assets strategic planning of the Department of Education.

The clause inserts a new section 30ZA (School councils do not have certain powers) that specifies that a school council may not have control of

funds; may not enter into contracts; may not acquire, hold, dispose of, or deal with property; and may not sue or be sued.

The clause inserts a new division in new part 3B (School councils), *viz.*: division 3 (Membership).

The clause inserts a new section 30ZB (Membership of school councils) that sets out the membership requirements for school councils. The membership is as follows:

- (a) the school's principal;
- (b) if the school for which the school council is formed has a parents and citizens association—the president of the association;
- (c) the elected parent members;
- (d) the elected staff members;
- (e) the elected student members;
- (f) the appointed members.

The clause regulates the number of members from at least 6 to no more than 15, and the number of appointed members to be no more than 2. The number of elected parent members and elected staff members must be equal. There must not be more than 2 elected student members and 2 appointed members. The clause states further that there must be at least 1 elected parent member, 1 elected staff member and 1 elected student member. The provisions about elected student members only applies to years 10, 11 and 12. The president of an association may, under the association's constitution, appoint another association member as an alternative association member to attend council meetings in the place of the president when the president is unable to attend the meetings. An alternative association member attending a meeting has the same rights and duties as the president.

The clause inserts a new section 30ZC (Chairperson). The clause specifies that a school council must elect a chairperson from amongst the members of the council. The clause prohibits the principal of a school for which a school council is formed from becoming chairperson of that school council. The clause prescribes that the chairperson holds office for the term decided by the school council unless the person's term of office as a member of the council ends sooner than the chairperson's term.

The clause inserts a new section 30ZD (Terms of office for elected and appointed members). The clause specifies that an elected or an appointed member holds office for the term not longer than 2 years, as specified in the council's constitution. The clause provides that the constitution of a school council may provide for up to one-half of the first elected members (or if one-half of the number of the first elected members is not a whole number, the next highest whole number) to hold office for a term of not longer than 3 years. The clause specifies that a member elected or appointed to fill a casual vacancy in the office of an elected or appointed member must be the same type of member as the vacating member, and holds office only for the balance of the vacating member's term.

The clause provides that the office of an elected or an appointed member of a school council becomes vacant if the member:

- (a) dies; or
- (b) resigns the office by writing signed by the member and given to the chairperson, or, in the case of the chairperson, to the principal's supervisor; or
- (c) is absent from 3 consecutive meetings of the school council, of which the member has been given notice under the constitution, without the council's leave and without reasonable excuse; or
- (d) stops being eligible under the proposed Act or the constitution, for election or appointment to the office.

The clause provides that if the office of an elected or appointed member of a school council is vacant and, because of the vacancy, the membership does not comply with new section 30ZB(2), then the council is taken to be validly constituted until the earlier of the following happens; the day the vacancy is filled, or the expiry of 3 months after the day the vacancy arose.

The clause inserts a new section 30ZE (Ineligibility on conviction of indictable offence). The clause states that a person is not eligible to be an elected parent member, elected staff member or appointed member of a school council if the person has been convicted of an indictable offence. The Bill specifies, however, that if the Minister considers it reasonable after having regard to the circumstances of the indictable offence for which the person has been convicted, the Minister may permit the person to be a member despite the conviction.

The clause inserts a new section 30ZF (Appointment not affected by

other laws restricting employment) that specifies that if another Act prohibits or regulates a person's employment, or other engagement in activities, outside of a stated office or position, the proposed Act does not prevent the person from being a member of a school council, or carrying out the person's functions as a member of a school council, or being paid expenses incurred in attending council meetings.

The clause inserts a new division in new part 3B (School councils), *viz.*: division 4 (Constitution).

The clause inserts a new section 30ZG (Constitution for school council). The clause specifies that each school council must have a constitution. The clause sets out the matters that must be provided for in the constitution. A school council is authorised by the clause to prepare and adopt an amendment of its constitution, however, any amendment has no effect until it is approved by the chief executive. The clause sets out the matters that the chief executive must have regard to in deciding whether to approve an amendment.

The clause inserts a new section 30ZH (Model constitutions for school councils). The clause authorises the chief executive to prepare model constitutions for school councils, and requires each school council to have regard to the model constitutions when preparing and adopting amendments to its constitution.

The clause inserts a new division in new part 3B (School councils), *viz.*: division 5 (Council business).

The clause inserts a new section 30ZI (Conduct of business). The clause sets out the way in which a school council is to conduct its business, including its meetings.

The clause inserts a new section 30ZJ (Time and place of meetings). The clause prescribes that school council meetings are to be held at the times and places the council decides. The clause places an obligation on a school council to meet at least twice in each semester. The clause authorises the chairperson, at any time, to convene a meeting of the school council. The clause states that the chairperson must convene a meeting of the school council when asked to do so in writing signed by at least the number of members constituting a quorum for the school council, or the chief executive or the Minister.

The clause inserts a new section 30ZK (Quorum). The clause specifies

that a quorum of members for a school council is to be the number equal to two-thirds of its members, or if two-thirds is not a whole number, the whole number next higher.

The clause inserts a new section 30ZL (Conduct of meetings) that provides for the conduct of a school council's proceedings. Specifically, the clause provides for the member who is to preside at council meetings, the deciding of questions at council meetings, the conducting of meetings other than by face-to-face arrangements, and the way in which a resolution is decided even if not passed at a council meeting.

The clause inserts a new section 30ZM (Attendance by proxy). The clause specifies that members are not authorised to attend meetings by proxy, however, the principal may attend a school council meeting by proxy providing that the principal may not attend more than 2 meetings each year by proxy.

The clause inserts a new section 30ZN (Disclosure of interests by school council members). The clause provides the circumstances under which a member of a school council must disclose a direct or indirect financial interest in an issue being considered or about to be considered by the council. The clause also prescribes how such interests are to be recorded. Where the member's absence affects the quorum, the provision states that the remaining members present are a quorum of the council for considering or deciding the issue at the meeting.

The clause inserts a new division in new part 3B (School councils), viz.: division 6 (Application of other laws).

The clause inserts a new section 30ZO (Criminal Law (Rehabilitation of Offenders) Act 1986). This clause relates to the application of section 9A (Disclosure of particulars in special cases) of the Act to the office of elected or appointed member of a school council. The clause states that for the application of section 9A, a person is taken to apply for the office if the person consents to be appointed as an appointed member (whether or not the council has decided to appoint the person) or stands for election as an elected member. Section 9A does not apply to an elected student member.

The clause inserts a new section 30ZP (Libraries and Archives Act 1988). This clause states that a school council is a "public authority" under the *Libraries and Archives Act 1988*.

The clause inserts a new section 30ZQ (Freedom of Information Act

1992). The clause declares that for the application of the *Freedom of Information Act 1992*, each school council is taken to form part of the Department of Education. However, the clause excludes school councils from having to comply with part 2 (Publication of certain documents and information) of the Act. Part 2 relates to the preparation of a Statement of Affairs. The intention is for some freedom of information matters not to apply to School councils and for certain other freedom of information matters to be dealt with by the Department of Education, which is an “entity” in its own right for the purposes of the *Freedom of Information Act 1992*.

The clause inserts a new section 30ZR (Public Sector Ethics Act 1994). The clause states that for the application of the *Public Sector Ethics Act 1994* each school council is a public sector entity, each member of a school council is a public official of the entity, and the Director-General is the chief executive officer of the entity. The clause places an obligation on the Director-General to ensure that a code of conduct is prepared that, after approval under section 17 of the *Public Sector Ethics Act 1994*, will apply to each school council.

The clause inserts a new division in new part 3B (School councils), *viz.*: division 7 (Starting up).

The clause inserts a new section 30ZS (Purpose and application) that sets out the purpose and application of division 7.

The clause inserts a new section 30ZT (Initial constitution) that deals with the preparation of a draft constitution by the principal, the consultation that must be conducted when preparing the constitution, and the application of the constitution.

The clause inserts a new section 30ZU (Initial membership) that provides on establishment, a school council consists only of the official members.

The clause inserts a new section 30ZV (First elected and appointed members) that places an onus on the principal and, if there is an association formed for the school for which the council is established, the president of the association as the official members, to organise the election of the council’s elected members. After the election, the council as constituted by the official and elected members may appoint the appointed members.

The clause inserts a new division in new part 3B (School councils), *viz.*:

division 8 (Dissolution).

The clause inserts a new section 30ZW (Dissolution of school council). This clause provides that a school council is dissolved if the school for which it was established is discontinued. The clause provides further that a regulation may prescribe other circumstances for dissolution. On dissolution, the members of the school council immediately before the dissolution go out of office.

The clause inserts a new section 30ZX (Records). This clause provides for the records of a school council on dissolution. The principal is to ensure that the records are given to the chief executive as soon as practicable after the dissolution.

The clause inserts a new division in new part 3B (School councils), *viz.*: division 9 (Miscellaneous).

The clause inserts a new section 30ZY (School councils not to establish committees or subcommittees) that prohibits school councils from establishing committees or subcommittees.

The clause inserts a new section 30ZZ (Expense of attending meetings) which provides that each member of a school council is entitled to be paid the amounts decided by the chief executive for the expenses incurred in attending council meetings.

The clause inserts a new section 30ZZA (Minister's power to give directions in the public interest). The clause authorises the Minister to give a school council a written direction if the Minister is satisfied it is necessary to give the direction in the public interest. Without limiting the above general authority of the Minister, the clause provides that a direction may require the school council to comply with a policy, standard or other instrument of a public sector unit, or another document, including, for example, another policy, standard or instrument. A school council must comply with the direction. The Department of Education's annual report must include a copy of all directions given under this section during the year.

The clause inserts a new section 30ZZB (Protection from liability) to provide that a member of a school council does not incur civil liability for an act done, or omission made, honestly and without negligence under the Act. In that case, the clause provides that civil liability attaches instead to the State.

The clause inserts a new section 30ZZC (Improper use or disclosure of

information). This clause imposes a maximum penalty of 10 penalty units for improper use or disclosure of information by a person who is, or has been, a member of a school council. The clause authorises use, disclosure and the making of records in certain circumstances.

Clause 22 omits section 31 (Preschool not to be a State school) as a result of the amendment of the definitions of “State school” and “State preschool centre” in section 3 (Interpretation) of the Act.

Clause 23 amends section 36 (Functions of an association). The clause omits from subsection (1)(b) the phrase “and the teachers and students at such school”, and instead inserts the phrase “and the teachers, other members of the staff and students at the school”.

Clause 24 amends section 37 (Manner of exercising power etc.). The clause inserts a new subsection which provides that, despite subsection (3), the executive committee of an association may not remove a person as a member, officer or both a member and an officer of the association.

Clause 25 inserts a new section 39A (Vacancy of officers of association).

The clause provides that the office of an officer of a parents and citizens association becomes vacant if the officer:

(a) dies; or

(b) resigns the office by writing signed by the member and given to the president, or, in the case of the president, to the vice-president, secretary or treasurer; or

(c) is absent from 3 consecutive meetings of the association, of which the member has been given notice under the constitution, without the association’s leave and without reasonable excuse.

Clause 26 inserts a new section 45 (Financial year) that adds the option for a parents and citizens association to choose the period of 12 months ending 30 June for the association’s financial year. Currently, the Act permits an association to choose the period of 12 months ending either 31 December or 30 September.

Clause 27 amends section 47 (Power to enter into agreements) in relation to the objects for which a parents and citizens association may enter into agreements. The clause omits the words from “which agreement has as its object-” in subsection (1), and instead inserts the words “if the agreement is

entered into for the benefit of the students at a State school”.

Clause 28 replaces section 49 (Annual subscription). The new clause (Regulations to provide for membership) provides that the regulations may make provision about the way in which a person becomes a member of an association, subject to section 33 (Formation of parents and citizens associations). The clause further provides that a person who is refused membership of an association may make a submission to the Minister about the refusal, and appeal to a Magistrates Court as if the person had been a member of the association and had been removed from the association.

Clause 29 inserts new sections 56A (Disclosure of interest by members of association), 56B (Honorary life membership of association), and new division 9 (Removal of member and officers of association).

The clause inserts a new section 56A (Disclosure of interests by members of association) which applies to an interested member, which in this section means a member of an association, or the executive committee or a subcommittee of the association. The clause applies to an interested member who has a direct or indirect financial interest in an issue being considered, or about to be considered, by the entity, and the interest could conflict with the proper performance of the member’s duties in relation to the consideration of the issue. An entity in this section means the association or the executive committee or a sub-committee of the association. The clause also prescribes how such disclosures are to be recorded. Where the member’s absence affects the quorum, the provision states that the remaining members present are a quorum for considering or deciding the issue at the meeting.

The clause inserts a new section 56B (Honorary life membership of association). The clause provides that an association, other than an interim association, may decide to award honorary life membership to a person who is or was a member of the association. Such an award may only be given if the association decides that the person has given long and meritorious service to the association, such decision being made at an annual general meeting of the association by a two-third majority vote of the members present at the meeting.

The clause inserts a new division 9 (Removal of member and officers of association).

The clause inserts a new section 56C (Definitions for div 9) which

defines particular expressions used in division 9.

The clause inserts a new section 56D (Removal of nominated person by association) which provides that an association may remove a nominated person only under division 9.

The clause inserts a new section 56E (Grounds for removal). This clause sets out the grounds on which a nominated person may be removed such as, for example, where the nominated person is convicted of an indictable offence, or contravenes the Act or the association's constitution without reasonable excuse.

The clause inserts a new section 56F (Procedure for removal of nominated person). This clause outlines the procedure by which, where an association considers a ground exists to remove a nominated person, that association can remove that nominated person. The clause provides that written notice must be given to the nominated person, and that the association may remove the nominated person if, after considering all written representations made within the stated time, the association still considers that a ground exists to remove the nominated person. The association must inform the nominated person of the decision by written notice which must be given within 14 days after the association makes its decision. If the association decides to remove the nominated person, the notice must state a number of things, including the reasons for the decision and that the person may make a submission to the Minister against the decision.

The clause inserts a new section 56G (Submissions against removal). This clause provides that a person removed by an association may make a submission against the removal to the Minister. The submission must be in writing and contain various prescribed information, and must be given to the Minister either within 14 days of the notice of removal being given to the person, or a later time if the Minister allows another later time for giving the submission. The clause provides that where a person who has been removed from an association resigns or purports to resign from the association as a member or officer after receipt of a notice of removal, the person may not make a submission against the removal to the Minister.

The clause inserts a new section 56H (Dealing with submissions against removal). This clause provides that if a submission is made to the Minister, the Minister must promptly consider the decision and the submission and

affirm the decision, or vary the decision, or set aside the decision and make a new decision in substitution of the decision to remove the person. After this, the Minister must promptly tell the person of the Minister's decision and, within 7 days after telling the person about the decision, give written notice to the person and the relevant association about the Minister's decision and the reasons for the decision. The written notice must also state that the person may appeal against the Minister's decision to a Magistrates court, and state the time within which the person may make the appeal.

Clause 30 amends section 57 (Compulsory enrolment and attendance at school). The clause clarifies section 57 following the omission of section 29 (Hours of instruction).

Clause 31 amends section 62 (Employment of children of school age) as a result of the omission of section 29 (Hours of instruction), allowing for a regulation to prescribe the hours for attendance at school during which a parent shall not employ a parent's child who is the age of compulsory attendance or cause or permit a parent's child who is the age of compulsory attendance to be employed, unless there is in existence at the material time, in respect of that child, a dispensation granted in accordance with section 58(1).

Clause 32 inserts a new part 6 (Allocation of State education) in the Act. The clause inserts a new heading for part 6 and for division 1 of part 6, *viz.*: division 1 (Application and purpose of part). New part 6 provides for the allocation of semesters of State education and for the process of applying for and granting extra semesters and further semesters of State education.

The clause inserts new section 62A (Application of part to a student below 15) which provides that a student who is under 15 years at the time of starting a semester at a State educational institution but does not have any remaining allocation, may attend the institution for all of the semester without making an application under new division 3 (Extra semesters may be granted by principals) or 5 (Further semesters may be granted by chief executive).

The clause inserts new section 62B (Allocation of semesters for each student) which provides that the purposes of the part is to ensure that each student who enrolls in a State educational institution has an allocation of State education.

The new section provides that if a student enrolls in year 1 in a State educational institution before the student is 7 years of age, the student has

the basic allocation.

The new clause provides that for some students, the principal of a State educational institution must calculate the remaining allocation for the student.

The clause provides that under certain circumstances, the allocation may be increased by the principal of a State educational institution under division 3 or by the chief executive under division 5.

The clause inserts a new division 2 (Calculation of basic and remaining allocations).

The clause inserts new section 62C (Calculation of allocation where student begins schooling at State educational institution) which provides that if a student begins school in year 1 at a State educational institution before the student is 7 years of age, the student has the basic allocation from the start of the semester in the school year in which the student began schooling.

The clause inserts new section 62D (Calculation of allocation if section 62C(1) does not apply) which provides that if a student begins schooling at a State special education developmental centre, the student has the basic allocation, calculated from the start of the semester in the school year in which the student attains or attained 6 years of age.

The new section provides that if a student is a student mentioned in new section 62C(2)(b) or (c) (Calculation of allocation where student begins schooling at State educational institution) and the student applies to enrol in a State educational institution, the principal must decide the student's remaining allocation.

The new section provides that if a student (other than a student mentioned in subsection (1) and (2) of new section 62D) is enrolled in a year level mentioned in column 1 at the end of semester 2 in 1997, subject to subsection (4) the principal of the State educational institution in which the student was enrolled is taken to have decided that the student has a remaining allocation mentioned opposite in column 2.

The new section sets out columns 1 and 2.

The new section provides that if the principal decides that a student's remaining allocation is other than is set out in the subsection, the principal must send the student written notice about the principal's decision by the end of semester 1 in 1998.

The new section also provides that if the student has been the subject of a dispensation under section 58 (Dispensation from compliance with compulsory enrolment and attendance provisions) for a reason mentioned in section 58(2)(b), (c) or (e) and did not attend a program of education or instruction for all or part of the period of the dispensation (the “excused period”), the excused period must not be included in calculating the student’s remaining allocation.

The clause inserts a new section 62E (Principal must consider remaining allocation for certain students) which applies to a decision by the principal of a State educational institution about a student under new section 62D (Calculation of allocation if section 62C(1) does not apply).

The new section provides that the principal’s decision about a student’s remaining allocation must be made in the way the principal considers appropriate after considering all relevant matters. The new section gives examples of relevant matters.

The new section provides that if the student has applied to enrol in the State educational institution, the principal must make the decision within a reasonable time of the date of the application to enrol in the State educational institution.

The new section provides that after the principal has made a decision the principal must promptly tell the student about the decision and, within 7 days after telling the student, give written notice to the student. The new section provides for what the written notice must be about, including that, if the student is not satisfied with the principal’s decision the student may make a submission to the principal’s supervisor against the decision, and the title, name and address of the supervisor and the way in which the submission may be made.

The clause inserts new section 62F (Annual notice about remaining allocation) which applies to all students enrolled in semester 2 in a calendar year in a State educational institution.

The new section provides that by the end of the calendar year, the principal of the State educational institution must give written notice to each student about the student’s remaining allocation after the end of semester 2 of the calendar year.

The new section provides for what the notice must state.

The new section provides that the notice may be included with another

report or document given to the student.

The clause inserts a new division 3 (Extra semesters may be granted by principals) which is concerned with the grant of extra semesters by a principal to a student who does not have any remaining allocation.

The clause inserts new section 62G (Application for extra semesters if no remaining allocation) which provides that a student who does not have any remaining allocation may apply, in the approved form, to the principal of a State educational institution for the granting, in a school year, of not more than 2 extra semesters of State education at the State educational institution. The new section sets out how the application must be made.

The clause inserts new section 62H (Principal must consider and decide application for extra semesters) which provides for the way in which the principal must consider and decide an application for extra semesters. The new section provides that the principal must make the decision within a reasonable time of the date of the application, having regard to the need to collect and analyse the results of any assessment of the student undertaken during the semester immediately before the semester, or the earlier of the semesters, to which the application relates.

The new section provides that after the principal has made a decision the principal must promptly tell the student about the decision and, within seven days after telling the student, give written notice to the student. The new section provides for what the written notice must be about.

The new section provides that, if the principal does not grant the application as applied for by the student, the written notice must also state that the person may make a submission to the principal's supervisor against the decision and the title, name and address of the supervisor and the way in which the submission may be made.

The clause inserts new section 62I (Limitation on extra semesters granted by principals) which provides that no more than 4 extra semesters may be granted to a student under this division.

The clause inserts a new division 4 (Submissions against principal's decision) which is concerned with the making of submissions against the principal's decision.

The clause inserts new section 62J (Submissions against principal's decision) which applies to a decision of the principal of a State educational institution about the allocation of semesters to a student under new division

2 (Calculation of basic and remaining allocations), including a decision under new section 62D (Calculation of allocation if section 62C does not apply) subsections (3) or (4) or 62F (annual notice about remaining allocation), or an application for an extra semester or semesters under new division 3.

The new section provides that the student may make a submission against the principal's decision to the principal's supervisor.

The new section provides for the way in which the application must be made.

The clause inserts new section 62K (Dealing with submissions against principal's decision) which provides that if a submission is made to the principal's supervisor, the principal's supervisor must promptly consider the decision and the submission and affirm or vary the decision, or set aside the decision and make a new decision in substitution of the decision.

The new section provides that after the principal's supervisor has made a decision the principal's supervisor must promptly tell the student about the supervisor's decision and, within 7 days after telling the student, give written notice to the student. The new section provides for what the written notice must be about, including the student's right to appeal, under section new 77AB (Appeals), against the supervisor's decision, including the time within which the student may appeal.

The clause inserts a new division 5 (Further semesters may be granted by chief executive) which is concerned with the grant of further semesters of State education by the chief executive.

The clause inserts new section 62L (Application for further semesters if no remaining allocation and after extra semesters) which applies to a student who does not have any remaining allocation and who has been granted 4 extra semesters under division 3.

The new section provides at subsection (2) that the student may apply, in the approved form, to the chief executive for the granting of not more than 2 further semesters of State education at a specified State educational institution.

The new section provides for when the application must be given to the chief executive.

The clause inserts new section 62M (Chief executive must consider and decide application for further semesters) which provides for the way in

which the chief executive must consider and decide an application for further semesters. The new section provides that the chief executive must make the decision within a reasonable time of the application, having regard to the need to collect and analyse the results of any assessment of the student undertaken during the semester immediately before the semester, or the earlier of the semesters, to which the application relates.

The new section provides that after the chief executive has made a decision about the application the chief executive must promptly tell the student about the decision and, within seven days after telling the student, give written notice to the student. The new section provides for what the written notice must be about, including the student's right to appeal, under section new 77AB (Appeals) against the chief executive's decision, including the time within which the student may appeal.

The clause inserts new section 62N (Chief executive to give notice to the principal if further semesters granted) which provides that if the chief executive grants an application in relation to a student for further semesters, the chief executive must give written notice to the principal of the State educational institution that the student is to attend about the chief executive's decision. The new section sets out what the notice must state.

The clause inserts new section 62O (Limitation on further semesters granted by chief executive) which limits to 2 the number of semesters that may be granted to a student under division 5 (Further semesters may be granted by chief executive).

The clause inserts a new heading, *viz.*: part 7 (Various general provisions).

Clause 33 omits the heading to part 8 (General provisions).

Clause 34 inserts a new part 8 (Appeals and miscellaneous matters). The clause inserts a new division *viz.*: division 1 (Appeals).

The clause inserts a new section 77AA (Definitions for division). This clause defines particular expressions used in the division (Division 1—Appeals), including “aggrieved person” and “court”.

The clause inserts a new section 77AB (Appeals). This clause provides that an aggrieved person may appeal against the decision about which the person is aggrieved to a court. The appeal is to be started by filing a notice of appeal in the court within 28 days after the aggrieved person receives

notice of the decision appealed against. The clause further provides that the appeal is by way of rehearing on the material that was before the person whose decision is appealed against. The court may allow the appeal and make any order the court considers appropriate, or dismiss the appeal.

Clause 35 amends section 78 (Regulation-making power) to include a new power to make a regulation about the dissolution of a school council or an association.

Clause 36 inserts new sections 82 (Existing resolutions of associations about financial year), 83 (Removal of officers or members of association), 84 (Application of part to continuing students) and 85 (Numbering and renumbering of Act).

The clause inserts new section 82 (Existing resolutions of associations about financial year) to provide a transition provision for a parents and citizens association's financial year.

The clause inserts new section 83 (Removal of officers or members of association) which declares that if an existing constitution of a parents and citizens association provides for the removal of officers or members then that provision in the constitution has no effect.

The clause inserts a new section 84 (Application of part to continuing students) which provides that a person must not be denied enrolment at a State educational institution merely because the person does not have any remaining allocation if the person was enrolled at the institution or another State educational institution before the end of semester 2 in 1997.

The clause inserts new section 85 (Numbering and renumbering of Act) which provides for the next reprint of the Act under the *Reprints Act 1992* to be numbered and renumbered as permitted by section 43 (Numbering and renumbering of provisions) of the *Reprints Act 1992*.

PART 6—AMENDMENT OF *EDUCATION (OVERSEAS STUDENTS) ACT 1996*

Clause 37 specifies that the intention of this part of the Bill is to amend the *Education (Overseas Students) Act 1996*.

Clause 38 amends section 5 (Achievement of object) to ensure that the section achieves the policy objectives of covering State educational institutions, institutes of TAFE, agricultural colleges and other entities.

Clause 39 amends section 7 (Registration, and amendment, renewal and transfer of registration) of the Act to allow for a regulation to prescribe a person who may apply in connection with registration under that section. The clause also removes paragraph (e) from subsection (1). Paragraph (e) allows for a transfer of the registration of a course between registered providers. This cannot actually happen. A course cannot be registered for overseas students unless it is first accredited, registered, approved or otherwise recognised by the appropriate body. Such recognition is usually provider-specific. Accordingly, the new owner of the course and the course itself cannot satisfy one of the criteria of registration for overseas students until they are appropriately recognised. In the circumstance where one registered provider transfers a course to another registered provider, the transferee will have to make an application for registration of the course for overseas students, showing that the course is appropriately recognised and/or that it is recognised as being able to provide the course.

Clause 40 amends section 9 (Registration certificates) to remove the need for statutory conditions imposed by section 8 (Statutory conditions) to be listed on the registration certificate. The listing of statutory conditions on the registration certificate is superfluous as the statutory conditions apply to all registered providers equally.

Clause 41 amends section 17 (Acting without or contrary to registration) to declare that subsection (1) does not apply to the State or a public service officer, the Commonwealth or an officer of the Commonwealth, in promoting the activities of the State, the commonwealth or a registered provider.

Clause 42 amends section 19 (Appeals to courts) to declare that the principals of State educational institutions and the directors of institutes of TAFE are persons whose interests are affected by a decision about institutions or institutes.

Clause 43 amends section 34 (Regulation-making power) to state that subsection (4) of section 7 (Registration, and amendment, renewal and transfer of registration) does limit the conditions the chief executive may decide for a registration.

Clause 44 amends section 35 (Transition arrangements) by omitting the

now redundant subsection (1). The clause inserts a new subsection that clarifies the application of the other transition provisions.

Clause 45 amends the schedule (Dictionary) by inserting definitions of “agricultural college” and “chairperson of the board of an agricultural college”.

PART 7—AMENDMENT OF *EDUCATION (SCHOOL CURRICULUM P-10) ACT 1996*

Clause 46 specifies that the intention of this part of the Bill is to amend the *Education (School Curriculum) Act 1996*.

Clause 47 amends section 39 (Control of the office). The Bill omits redundant paragraphs (a) and (b) of subsection (2). The amendment maintains the restrictions on the functions and powers of the director of the Office of the Queensland School Curriculum Council to that enumerated in section 51(2) of the *Public Service Act 1996* whilst at the same time removing the superfluous verbiage in 39(2)(a) and (b).

PART 8—AMENDMENT OF *EDUCATION (SENIOR SECONDARY SCHOOL STUDIES) ACT 1988*

Clause 48 specifies that the intention of this part of the Bill is to amend the *Education (Senior Secondary School Studies) Act 1988*.

Clause 49 amends section 4 (Definitions) by inserting a definition for “State educational institution”.

Clause 50 amends section 41 (Control of the office). The Bill omits redundant paragraphs (a) and (b) of subsection (2). The amendment maintains the restrictions on the functions and powers of the director of the Office of the Board of Senior Secondary School Studies to that enumerated in section 51(2) of the *Public Service Act 1996* whilst at the same time removing the superfluous verbiage in 41(2)(a) and (b).

PART 9—AMENDMENT OF *EDUCATION (TEACHER REGISTRATION) ACT 1988*

Clause 51 specifies that the intention of this part of the Bill is to amend the *Education (Teacher Registration) Act 1988*.

Clause 52 amends section 33 (Control of the office). The Bill omits redundant paragraphs (a) and (b) of subsection (2). The amendment maintains the restrictions on the functions and powers of the director of the Office of the Board of Teacher Registration to that enumerated in section 51(2) of the *Public Service Act 1996* whilst at the same time removing the superfluous verbiage in 33(2)(a) and (b).

Clause 53 amends section 37 (Good character of each applicant to be assessed) of the Act. The amendment places an obligation on the board to have regard to an applicant's criminal history when the Board is deciding whether an applicant for registration is of good character.

The amendment also provides that the Board may consider all other matters the board considers relevant even if the matter happened outside of the State in deciding whether the applicant is of good character.

The amendment provides that, if asked by the board, the commissioner of the Police Service must give the board a written report about the criminal history of the person, including the criminal history in the commissioner's possession or to which the commissioner has access. The criminal history of a person is defined for the section.

The amendment also renumbers the subsections of section 37.

Clause 54 amends section 44 (Duty of registered teacher convicted of indictable offence etc.) of the Act. The amendment increases to 10 penalty units the maximum penalty for non-compliance with the duty of a registered teacher to notify the board of the occurrence any of the events listed in section 44(1) within 7 days after the event happening.

Clause 55 inserts new sections after section 44 (Duty of registered teacher convicted of indictable offence etc.), viz.: section 44A (Employing authority to notify board about sexual allegations in certain circumstances), section 44B (Prosecuting authority to notify board about committal, conviction etc.) and section 44C (Board must consider notices under section 44A and 44B and decide if inquiry necessary).

The clause inserts a new section 44A (Employing authority to notify

board about sexual allegations in certain circumstances) which applies if an employing authority for a school gave written notice to a relevant teacher that the authority was dissatisfied with the relevant teacher after the employing authority had investigated a sexual allegation involving the teacher and within 6 months of the notice the employing authority dismissed the relevant teacher from the educational staff of the school; or the relevant teacher resigned from the educational staff of the school.

The new section provides that, in those circumstances, the employing authority must give written notice of the dismissal or resignation to the board. The new section sets out what the notice to the board must include and provides that, regardless of the date of effect of the resignation or dismissal, the notice must be given to the board within 7 days of the employing authority giving notice of the dismissal to the relevant teacher, or receiving notice from the relevant teacher of the teacher's resignation.

The new section defines "employing authority", "relevant teacher" and "sexual allegation" for the section.

The clause inserts a new section 44B (Prosecuting authority to notify board about committal, conviction etc.) which applies if a person is charged with an indictable offence and a prosecuting authority believes, on reasonable grounds, that the person is a registered teacher or, at any time, was a registered teacher.

The new section provides that, where the person is committed for trial or convicted of the indictable offence, or if there is an acquittal, mistrial, presentation of a nolle prosequi to a court or decision by the prosecuting authority not to present an indictment in relation to the indictable offence for which the person was charged, the prosecuting authority must give written notice to the board within 7 days after the event. The new section also sets out what the notice must include.

The new section defines prosecuting authority for the section.

The clause inserts a new section 44C (board must consider notices under section 44A and 44B and decide if inquiry necessary) which requires that, as soon as practicable after the board is given a notice under section 44A or 44B, the board must consider the notice and any other information that it considers relevant and decide if the grounds exist for the board to conduct an inquiry under section 50 and whether an inquiry is to be conducted.

**PART 10—AMENDMENT OF *EDUCATION*
(*TERTIARY ENTRANCE PROCEDURES AUTHORITY*)
*ACT 1990***

Clause 56 specifies that the intention of this part of the Bill is to amend the *Education (Tertiary Entrance Procedures Authority) Act 1990*.

Clause 57 amends section 31D (Control of the office). The Bill omits redundant paragraphs (a) and (b) of subsection (2). The amendment maintains the restrictions on the functions and powers of the executive director of the Office of the Tertiary Entrance Procedures Authority to that enumerated in section 51(2) of the *Public Service Act 1996* whilst at the same time removing the superfluous verbiage in 31D(2)(a) and (b).

**PART 11—AMENDMENT OF *PUBLIC SERVICE ACT*
*1996***

Clause 58 specifies that the intention of this part of the Bill is to amend the *Public Service Act 1996*.

Clause 59 amends section 21 (What is a “government entity”) of the Act.

Without alleviation, the term “government entity” at section 21 of the Act would capture each school council. It is not considered appropriate for school councils to be caught by the *Public Service Act 1996* and, as a consequence, be laid open to certain other provisions of the Act.

The clause amends section 21 by adding school councils to the list at subsection (2) of entities that are prescribed under the Act not to be government entities.

**PART 12—AMENDMENT OF *WHISTLEBLOWERS*
*PROTECTION ACT 1994***

Clause 60 specifies that the intention of this part of the Bill is to amend the *Whistleblowers Protection Act 1994*.

Clause 61 amends schedule 5 (Sectional definitions).

Without alleviation, the *Whistleblowers Protection Act 1994* would apply to school councils as if they were separate entities, and to members of those school councils. Under schedule 5, State educational institutions are declared for the Act's purposes to be part of the Department of Education. The clause similarly treats school councils. For the purposes of that Act, therefore, each school council is to be part of the Department of Education. This arrangement will emphasise the measure of seriousness about a commitment to the *Whistleblowers Protection Act 1994*, especially about the eradication of unwanted behaviours, the protection from reprisals of persons making "public interest disclosures" and the investigation of such disclosures.

Clause 62 amends schedule 6 (Dictionary) by inserting a definition of school council into the Act.