EDUCATION (ACCREDITATION OF NON-STATE SCHOOLS) BILL 2001

EXPLANATORY NOTES

Short Title of the Bill

The short title of the Bill is the *Education (Accreditation of Non-State Schools) Bill 2001*.

Policy Objectives of the Bill

The primary policy objective of the Bill is to create a new legislative regime:

- to support a regulatory environment which is comprehensive and which applies to all non-State organisations offering, or purporting to offer, schooling to young people;
- to support a diversity of schools and categories of schooling to meet community needs, aspirations and beliefs within a framework which ensures that the community can have confidence that all schools meet acceptable minimum standards of operation;
- to protect the public's interest in the standard of schooling and the safety of children, whilst being minimally intrusive in the operational affairs of schools;
- to establish a system of accountability that addresses the verification of data, on which funding levels are based, and the formal certification by the school that its expenditure of State funds was in accordance with the purpose for which they were granted.

In addition, the Bill contains an amendment to the *Education (Work Experience) Act 1996*. The amendment to the *Education (Work Experience) Act 1996* seeks to bring consistency to the insurance requirements relating to work experience in this Act as well as the *Training and Employment Act 2000*.

Consequential amendments are being made to the following Acts to reflect the objectives of this legislation and to standardise certain terms common to those Acts and this Bill:

- *Education (General Provisions) Act 1989*
- *Education (Capital Assistance) Act 1993*
- *Anti-Discrimination Act 1991*
- *Education (Work Experience) Act 1996*
- *Education (Tertiary Entrance Procedures Authority) Act 1990*
- *Workcover Queensland Act 1996*
- *Education (Teacher Registration) Act 1988*
- *Education (Senior Secondary School Studies) Act 1988*
- *Commission for Children and Young People Act 2000*
- *Child Care Act 1991*

Reason that the proposed legislation is necessary

Previous arrangements in Queensland

Previous to this Act, the legislative requirements relevant to non-State schools were contained in the *Education (General Provisions) Act 1989*. The establishment of a new non-State school entailed a three-stage process:

(a) planning approval under section 134A;

(b) approval of non-State school status under section 2(2); and

(c) categorisation as a "school in receipt of subsidy" under section 141(1).

The planning approval component derived from the Commonwealth New Schools Policy, which after 1984, operated to restrict the number of new schools established, and to control their enrolments, with a view to achieving efficient use of public funding access to schools of both State and non-State sectors. When the Commonwealth policy was rescinded in 1997, a more flexible process, also aimed at ensuring efficient use of public funds was established in Queensland by Ministerial decision with the support of non-State schools' authorities. The *Education and Other Legislation Amendment Act 1999* inserted *Part 8A* to the *Education (General Provisions) Act 1989* to provide a legislative basis for including a planning approval component as part of the non-State school approval process.

The planning approval component required a proposed school to demonstrate that it would not have a significant impact on State or non-State schools in its catchment area in the next five years, as a condition of approval. To meet this requirement, a proposed school had to be located in an area of population growth and/or offer a significant element of choice to the community.

Applications were assessed by a Planning Assessment Committee including representatives from both the Department of Education and representative bodies from the non-State schooling sector, and recommendations were made to the Minister. Decisions could be appealed to a separate body.

Proposed schools receiving planning approval could then apply for approved non-State school status. This requirement was authorised by the *Education (General Provisions) Act 1989*, and an Order in Council made under the Act that specified that

> *In order for a school to be considered as a non-State school for the purposes of section 3(2) of the Act, the Minister must be satisfied that adequate facilities for and efficient and regular instruction in preschool, primary, secondary, or special education as the case may be are provided to students attending the school.*

Applicants were required to provide information on their educational programs, facilities, resources including financial and staffing resources, proposed student enrolments, and their legal and organisational arrangements. Applications were assessed by qualified assessors who reported to the Office of Non-State Schooling in the Department of Education.

Data on outcomes of these two processes began to reflect that a significant number of applicants had been refused planning approval under the first stage of the process. It became evident that no school which had been granted planning approval had failed to gain non-State school status under the legislation.

Effect of these processes

The combined effect of these processes was to mix together in the considerations relating to entry to the industry, a set of concerns relating to standards and quality, and another set relating to demography, range of choices available in a community, and potential viability and impact on the viability of existing schools.

A second outcome of the previous arrangement was the existence of a group of schools that chose to operate entirely outside the regulatory framework. Under the previous regime, proponents of schools which were unsuccessful in achieving authorisation to operate could apply again in another location, or establish themselves without authorisation, and without State funds. Apart from a power to inspect a school, the Minister had no power to either close a school or to take action against an operator who simply chose to operate outside the realm of Government regulation.

In 1998, the State Auditor-General, in a review of the administration of Government grant schemes, drew attention to a number of weaknesses in the Department of Education's processes for both managing the approval for non-State schools to operate and allocating funds. These concerns included:

- the fact that different approaches to approval processes had evolved in different districts;
- the absence of clear criteria for the assessment of schools seeking approval to operate;
- the fact that the Government had no mechanism for monitoring State expenditure on non-State schools nor any formal requirement for non-State schools to account to the Government for their expenditure of State funds.

With a view to resolving these issues, the Government commissioned a review of accreditation and accountability arrangements for non-State schools. Professor L Roy Webb, Vice-Chancellor of Griffith University, was appointed to lead the review. Members of the non-State school sector and representatives of the Education Department also participated in the review. The committee identified the advantage of separating the process of approval to operate a school from the process of determining eligibility for Government funding. The separation protects the public interest in having access to as wide a range as possible of providers and of types of educational offerings. After extensive consultation, the review committee arrived at a set of recommendations for administering the non-State school sector. Those recommendations led to the preparation of this Bill.

How the Policy Objectives will be achieved

The objects of the legislation are primarily achieved in the following ways:

- A statutory body, the Non-State Schools Accreditation Board is established to assess the capacity of a school to meet accreditation criteria as prescribed in regulation.
- A five yearly renewal process is established to enable an accredited school to demonstrate that it continues to meet the accreditation criteria and engages in systematic management and improvement of quality through a process of priority-setting, performance monitoring and reporting.
- The Non-State Schools Eligibility for Government Funding Committee is established as a subcommittee of the Non–State Schools Accreditation Board to assess whether a school, requiring State funds to support the school's proposed program, is eligible for Government funding.
- It will be illegal for a school to operate unless it is accredited or provisionally accredited under the legislation.

Alternative method of achieving the Policy Objectives

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

Estimated cost for Government implementation

The proposed arrangements for the board and committee are to incur no additional cost to Government.

Consistency with Fundamental Legislative Principles

Comment on consistency with fundamental legislative principles of the *Legislative Standards Act 1992* is required in relation to the following provisions:

- Clause 15 (Application of *Commission for Children and Young People Act 2000,* pt 6)
- Clause 21 (Failure to decide to provisionally accredit school)
- Clause 29 (Failure to decide application during school's provisional accreditation period)
- Clause 39 (Suitability of governing body)

- Clause 45 (Failure to decide application)
- Clause 53 (Failure to decide application)
- Claude 90 (Failure to decide application)
- Clause 101 (Who may apply for review)
- Clause 102 (Applying for review)
- Clause 103 (Review decision about board's decision)
- Clause 104 (Review decisions about Minister's decision)
- Clause 107 (Membership of the board)
- Clause 128 (Guidelines)
- Clause 141 (Suitability of proposed authorised person)
- Clause 147 (Entry of school premises by assessor)
- Clauses 148 & 151 (Notice of entry)

Clause 15 (Application of *Commission for Children and Young People Act 2000,* pt 6); Clause 39 (Suitability of governing body); Clause 141 (Suitability of proposed authorised person)

The Bill will deem a director of a provisionally accredited, or accredited school's governing body as carrying on a regulated business under Part 6 of the *Commission for Children and Young People Act 2000*. The consequence of that is that directors of governing bodies must obtain a positive notice of suitability under that Act. The Bill departs from the fundamental legislative principles in this aspect as the matters that the Commissioner for Children and Young People ('the Commissioner') may have regard to when deciding whether a suitability notice should be issued to an applicant, include complaints and charges which have not resulted in conviction.

The screening process creates a tension between the rights of individuals and the competing rights of a child. This tension is underpinned by the principle that every child is entitled to be cared for in a way that protects the child from harm and promotes the child's well being. Provisions relating to employment screening are considered necessary in order to recognise that principle.

In the context of their position, directors of a governing body may have unrestricted rights to entry into the school occasioning possible frequent contact with children. Due to this scope for contact with children, the Bill

subjects prospective directors of a school's governing body to a similar level of scrutiny that applies to teachers, ancillary staff at the school (eg. janitors and cleaners), staff of the Department of Families, child care workers, foster carers, and persons wishing to adopt children. This process of scrutiny will enable a determination to be made as to a person's suitability to deal with children, thus protecting children from harm and promoting their well being.

The employment screening provisions also include the following safeguards to protect the rights of individuals:

(i) ensuring written notice of a decision by the Commissioner that a person is not suitable for child-related employment is accompanied by reasons for the decision and information about a person's right to have the decision reviewed by a tribunal;

(ii) protecting the privacy of persons who have a criminal history by maintaining confidentiality as to an employee's criminal history and not disclosing the contents of that history to the other directors of the governing body or the board. The issue of positive screening notices is a matter between individual directors of the school's governing body and the Commission for Children and Young People;

(iii) requiring the Commissioner to take into account the circumstances surrounding a person's criminal history in each case.

Clause 21 (Failure to decide to provisionally accredit school); Clause 29 (Failure to decide application during school's provisional accreditation period); Clause 45 (Failure to decide application); Clause 53 (Failure to decide application); Clause 90 (Failure to decide application)

The Bill provides for default 'no' decisions where the board or the Minister has failed to reach a decision within a prescribed time. The provision of a default 'no' decision will result in applications being automatically refused after the expiration of a stipulated time period. This will have the effect of preventing a matter from continuing unresolved in the system for an indefinite period. The deeming of a 'no' decision where no decision has been made, will therefore enable the review process to activate, so that an aggrieved person can seek first a review, and second a legal remedy if still unsuccessful.

Clauses 101—104, Chapter 4 (Reviews of Decisions)

The review provisions contained in Chapter 4 of the Bill provide a right of review of decision to the Minister, only to a person who was issued with, or was entitled to be issued with an information notice about the decision. On the face of it, this could be seen to be adversely affecting the rights and liberties of other people affected by the decision, and contrary to the principle of natural justice. However, the rights of these other aggrieved people, not provided with an information notice, are preserved by access to Judicial Review in the Supreme Court.

Under this Bill, the Minister will review her own decisions. Although this process is not independent, it is seen as the only viable alternative as a proposal to establish an independent merits-review Tribunal, to deal with reviews would be cost-prohibitive. This process, however, affords applicants with an opportunity to persuade the Minister to change the decision, before embarking on an expensive legal challenge.

Clause 107 (Membership of the board)

The board will consist of seven members appointed by the Governor-in-Council. The Association of Independent Schools of Queensland (AISQ), the Queensland Catholic Education Commission (QCEC) and Chief Executive will each nominate one member to ensure the three sectors are represented, and the Minister will nominate the remaining members. Given that Chapter 4 of the Bill provides that the Minister is to conduct reviews of decisions of the board a concern may arise whether, given the composition of nominees of the board, the Minister is an appropriate review body for the board's decisions. The Minister will nominate the chair of the board independently, but the other three nominees of the Minister can only be made after consultation with the AISQ and the QCEC. Therefore, these members should be acceptable to the non-State schooling sector and ensure that decisions of the board are reached in a balanced manner.

Clause 128 (Guidelines)

Section 128 of the Bill empowers the board to make guidelines about the methodologies to be followed in consideration of the accreditation criteria and the eligibility for Government funding criteria. The power to make guidelines for these purposes is necessary so that applicants, the board and the committee can all consider comparable measurements and data when applications and decisions are made in relation to the criteria. By having

this information in the guidelines, the board will be able to adapt the accepted approach to methodology as the board and committee gain greater experience and expertise in determining issues relevant to the accreditation criteria and eligibility for government funding criteria. Additionally the board will be able to issue guidelines about matters relevant to applications under this Bill to ensure an effective and efficient management of the application process. Further, the board is required to supply persons with copies of the guidelines free-of-charge.

Clause 147 (Entry of school premises by assessor); Clauses 148 & 151 (Notice of entry)

As part of the process in determining whether a school is complying with the accreditation criteria, which is central to the Bill, assessment of schools is conducted by assessors who enter the school. The Bill places well-defined limitations on these assessments in terms of when they may be performed, the class of person who may perform them and the number of times that such assessments can be made.

Entry to schools by a person authorised under the Bill is only permitted where the governing body is first issued with a notice stipulating the purpose of entry and the day on which entry is proposed. No automatic penalty attaches to the governing body if entry is refused.

Essentially, the purpose of assessors and auditors gaining entry to the school justifies the breach of the fundamental legal principles concerning entry. For assessors, the purpose is to ensure that the board has accurate information regarding the operation of the school, so as to enable the board to determine whether the school meets minimum standards. The entry of auditors is to ensure that the school is accountable with respect to Government funding. Auditors verify that data provided by the school directly correlates with the amount of taxpayers' funds paid to the school. The public interest in robust decision-making on appropriate independent evidence, and in accountability where public funds are concerned outweigh the concern relating to the intrusion by the Government on public property.

Consultation

Community

The Bill is based closely on the recommendations of the *Report of the Review of Accreditation and Accountability Arrangements for Non-State Schools* ('the Webb Review'). The Webb review involved extensive and

wide-ranging consultation with education stakeholders, and resulted in a high level of agreement between stakeholders in relation to the recommendations in the report.

In relation to the review process, Professor Webb met initially with representatives of the Association of Independent Schools of Queensland, the Queensland Catholic Education Commission, and the Department of Education. On the basis of these discussions, an 'Issues Paper' was developed and agreed, as a framework for the Review Committee's work. The committee developed an options paper that set out the changes proposed to the system and to provide stakeholders with an opportunity to comment on the draft proposals. The consultation process for the review has involved:

- *Release of public consultation documents*

  The options paper was circulated to all existing non-State schools, to school authorities, to parent and teacher organisations, to State Parliamentary representatives, and to relevant State Departments. The options paper was circulated to 457 stakeholders in total. Thirty-six schools and stakeholders, including system authorities, provided formal feedback.

- *Public meetings*

  During the Webb review, six public consultation sessions on the options paper were held in Brisbane and regional areas. At these meetings, the proposed changes were discussed with over 80 representatives of the stakeholders.

- *Stakeholder advisory groups*

  The following groups contributed to the research and policy development phase of the review:

  - The Review committee (comprising members of the non-State school sector)

  - The Implementation committee (comprising members of the non-State school sector)

- *Targeted consultation with key stakeholders*

  Over a two-month period, five information sessions about the Bill were conducted. A total of 59 representatives from the education community attended these sessions.

- *Exposure drafts of new legislation*

  Regular meetings were held to discuss drafts of the Bill. At such meetings, stakeholders were given access to draft copies of the Bill.

Government

The following Government departments and agencies were consulted in relation to the Bill:

- Commission for Children and Young People
- Department of Families
- Department of Justice and Attorney-General
- Department of Premier and Cabinet
- Department of State Development
- Treasury Department
- Office of the Auditor-General
- Department of Primary Industries
- Department of Industrial Relations

NOTES ON PROVISIONS

CHAPTER 1—PRELIMINARY

PART 1—INTRODUCTION

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

Clause 2 provides that parts of the Act are to commence on assent, whereas other parts are to commence on 1 January 2002. The parts to be commenced immediately are:

- The dictionary (clause 4 & Schedule 3);
- The power of the board to issue guidelines (clause 128);

- The power of the board to approve forms (clause 172);
- The other amendments, non-consequential on the commencement of the whole of the Bill (clause 215 and Schedule 2);
- The provisions relating to the Non-State Schools Accreditation Board;
- The provisions relating to the Non-State Schools Eligibility for Government Funding Committee.

PART 2—OBJECTS

Clause 3 sets out the objects of the Act. The primary focus of the Act is as detailed in the Policy Objectives of the Bill, contained in these Explanatory Notes. The objects set out in subclause 3(1) are important for guiding the administration of the legislation. This clause also sets out the ways in which the objects of the Act are to be achieved through the legislation. The matters listed in subclause 3(2) are the principle mechanisms that enable the objects of the Act to be met with regard to establishing the:

- Non-State Schools Accreditation Board;
- An accreditation regime;
- Non-State Schools Eligibility for Government Funding Committee;
- A process for determining eligibility for Government funding.

PART 3—INTERPRETATION

Clause 4 provides that particular words used in the Act are defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 5 defines the term "school" to mean a non-State school.

Clause 6 provides a definition of the term "non-State school". A "non-State school" means a school established to provide preschool and primary, primary, secondary or special education. The effect of requiring preschool as well as primary school education is that child-care centres offering only pre-school programs will not be captured by this Act. Subclause 6(2) sets out a number of exclusions to the definition. These exclusions mean that other specified institutions are not "non-State schools" for the purposes of this Act and therefore the Act has no application to them. Institutions that are not captured by the Act are:

- State schools;
- places where home schooling is undertaken, after a dispensation from Education Queensland has been obtained from the Minister for Education;
- tutorial organisations;
- TAFE institutes; and
- child care centres.

Clause 7 clarifies the meaning of the term "not operated for profit".

This clause means that a school will be "not operated for profit" only if any profits made from the school's operation are used entirely to advance the school's philosophy and aims. This means that a school can make a profit, as long as the profit is reinvested in the operation of the school.

Clause 8 allows a provision of the Act to apply to another provision of the Act. The other provision and any definition relevant to the other provision apply with any necessary changes.

CHAPTER 2—ACCREDITATION OF SCHOOLS

PART 1—ACCREDITATION CRITERIA

Clause 9 sets out the five broad areas under which criteria for the accreditation of non-State schools can be prescribed. The five areas are:

- the administration and governance arrangements of the school;

- the financial capacity of the provider to deliver and sustain the school's proposed program;
- the education program, including the school philosophy and aims, the curriculum, and student welfare practices and policies;
- the resources available to enable the school to achieve its aims, including staffing, land and buildings and other educational resources and support arrangements;
- evidence of a systematic approach to school renewal or improvement processes.

Under these major headings, criteria (the 'accreditation criteria') by which applications for accreditation are assessed are to be prescribed in the *Education (Accreditation of Non State Schools) Regulation 2001*.

The principles underpinning the use of these five areas to organise the criteria are:

- the need to assure the public that all schools meet adequate standards;
- the need to establish a regime which does not prescribe a particular approach, but supports a diversity of schools and approaches to schooling and curriculum;
- the United Nations Covenant on the rights of parents to choose schools other than State schools to provide for the education of their children, which requires individual nations to:

  have respect for the liberty of parents…to choose for their children schools other than those established by public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

The effect of Chapter 2, Part 1 of this Act is that the board cannot withhold accreditation, for example, on the grounds of the religious or philosophical convictions of the applicant where an applicant can satisfy accreditation criteria prescribed under these five key areas.

PART 2—ACCREDITATIONS

Division 1—Preliminary

Clause 10 makes it an offence to operate a school that is not an accredited or provisionally accredited school. A school is operated once students are being educated by the school. This clause is intended to capture institutions that students are attending, or are enrolled with, instead of attending, or enrolling with, State schools within the meaning of the Education (General Provisions) Act 1989 or provisionally accredited or accredited non-State schools within the meaning of the Education (Accreditation of Non-State Schools) Act 2001. This is an important enforcement mechanism designed to prevent persons from holding out institutions as providing education for children and young people when in fact the educational program and the school has not been subject to the board's scrutiny as to whether it meets the minimum standards of the accreditation criteria.

Clause 11 provides that only a governing body that is a corporation may apply for accreditation. It may be incorporated under the appropriate Commonwealth or State legislation including Corporations (Queensland) Act 1990, Association Incorporation Act 1981, Grammar Schools Act 1975, and Roman Catholic Church (Incorporation of Church Entities) Act 1994.

The effect of clause 11 is that an applicant must become a corporation before an application is submitted if the application is to be validly made. This clause gives effect to the view that school boards operating in a commercial environment need to be incorporated so that there is a separate entity that enjoys perpetual succession, that can acquire, hold and dispose of property, and that can sue and be sued. Incorporated legal status is also important given the need for members of governing bodies to be able to limit their individual legal liability when discharging their duties in good faith and with due diligence.

Clause 12 provides that a school can be accredited or provisionally accredited for education types relating to different age groups and/or for education specifically designed to meet the educational needs of students with a disability.

A school seeking to add a type of education that it is not already approved to offer, must apply to the board to be accredited for the new type of education.

Subclause 12(2) provides that a school offering preschool education must do so in conjunction with at least years 1,2 and 3 of primary school so that freestanding preschools are not able to be accredited.

Subclause 12(3) clarifies that a school without accreditation for special education can still provide individual adapted learning programmes that are appropriate to students with a disability. Accreditation for special education must be sought by a school intending to operate as a school specifically for students with disabilities.

Clause 13 provides that schools can be provisionally accredited or accredited for different forms of education delivery methods. The two forms of education delivery methods accredited under the Act are classroom education and distance education. A school can be provisionally accredited or accredited for both forms of delivery. It follows that, for example, a school accredited to provide classroom education only, cannot provide education delivered by distance.

The terms 'classroom education' and 'distance education' are defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 14 prevents an applicant who has already applied for accreditation from making an identical application before the board has made a decision on the initial application. The purpose of this clause is to avoid overzealous applicants tying up the board's resources by lodging multiple simultaneous applications.

Clause 15 provides that Part 6 of the *Commission for Children and Young People Act 2000* has application to this Act.

Part 6 of the *Commission for Children and Young People Act 2000* is entitled "Employment Screening for Child Related Employment" and provides for a process whereby people in regulated businesses, relating to children, are to be screened for suitability for that employment. The screening process involves an exhaustive check of the employee's criminal history.

Where there is no criminal history, the Commissioner will issue a positive suitability notice, enabling that person to work in child-related employment. Where a criminal history exists, an assessment of the type/s and nature of offence/s is undertaken. Depending on the outcome of this assessment, a decision is made as to whether that person is suitable to be

involved in child-related employment, and consequently a positive or negative suitability notice will be issued. If a negative notice is issued, the Commission provides reasons for that negative notice. Where the Commissioner proposes to issue a negative notice to a person, the Commissioner is required to invite submissions from the person about the circumstances surrounding their criminal history. The Commissioner is obliged to consider any submissions made by an applicant.

The consequence of the issue of a negative notice is that the person is unable to pursue work in child-related employment. A person issued with a negative suitability notice has the right to have the decision reviewed by the Children Services Tribunal.

The effect of the application of the *Commission for Children and Young People Act 2000* to this Act is a person who is a directorof a provisionally accredited or accredited school's governing body is taken to be carrying on a regulated business. Thus all directors of the governing bodies of schools must obtain and keep up to date suitability notices from the Commission for Children and Young People.

Division 2—Applications for accreditation

Subdivision 1—Applications

Clause 16 requires that an application for accreditation must be made to the board in the form approved by the board and be accompanied by any application fee prescribed under the Education (Accreditation of Non-State Schools) Regulation 2001. Information in the application must be verified by statutory declaration if the form approved by the board requires it to be so. The following information must be included in an application for accreditation:

- The school's proposed student intake day. The term 'student intake day' is defined in the Dictionary in Schedule 3 (located at the end of the Act);
- attributes that are to apply to the school if provisional accreditation or accreditation is granted, namely:
  - (a) The school's governing body, that is the legal entity (who is the applicant).

(b) The land on which the school is to operate. The provisional accreditation or accreditation of a school will not extend beyond the area of land described in this attribute. All of the land described in this attribute does not need to be necessarily physically adjacent. The area of land is to be described in as accurately a manner as possible, for example by Real Property description. A school will be able to, for example, offer swimming at the local council pool or take the students on an excursion to a place outside the school's land, without the need to have such places included in the attribute of the land on which the school is to operate, but such places will not become land on which the provisional accreditation or accreditation of the school is active.

(c) The curriculum model the school is to follow. For example, a school may be accredited with the attribute that the school will follow the syllabuses recognised by the Queensland School Curriculum Council (P-10), the Board of Senior Secondary School Studies, or syllabuses based upon a Steiner educational philosophy. Curriculum model refers to the overall course of study that is to be taught at the school.

(d) The mode of delivery of education to be used at the school. Mode of delivery is either or both of classroom education or distance education (see Clause 13)

(e) The years of schooling the school are to offer. For example, a school may apply for accreditation for primary education, with an attribute of accreditation being that the school can provide education for years 1 to 5. If the governing body of the school wishes to provide education for years 6 to 7, it must apply for a change to the attributes of the school's accreditation. If the governing body of the school wishes to provide education for years beyond primary education, for example, years 8 to 10, a separate application for secondary education must be made. To obtain accreditation for a "middle school", a governing body would apply for accreditation for both primary and secondary education, with the attributes for the primary education that years 5-7 can be provided, and the attributes for secondary education that year 8-10 can be provided. If the school is a multi-age school that does not operate with conventional year levels, the applicant must equate the students intended to be catered for with the conventional year levels.

(f) If the school operates from more than one site, the years of schooling to be offered at each site. For example, a school may be accredited to provide primary education, with the attribute that years 1 to 3 are provided at one specified site and years 4 to 7 are provided at another specified site. Any change to this arrangement will require the approval of the board.

(g) Whether the school is to include boarding facilities.

(h) Whether the school is to cater for both male and female students, or whether it is a single-sex school.

(i) If the school is an establishment phase school for a sector of schooling, the school's sector student-intake day for the sector of schooling. A school is an establishment phase school if it is accredited to offer a sector of schooling that it has not yet commenced to operate. The sector student-intake day is the first day of educating students in that sector. So for example, a school may apply to become a primary school to offer preschool and years 1 to 7. These years involve two sectors of schooling, namely preschool to year 3 and years 4 to 7. The school is intending to commence operation in preschool and year 1 in the first year, year 2 in the second year and year 3 in the third year and so on. The school will need to identify the student intake day for the sector of schooling for years 4 to 7 as a date in the forth year. This is to enable the assessment under Clause 37 to take place.

- indication of whether the applicant requires government funding for the school and if funding is sought, the aspects of the operation of the school for which the funding is required.

The attributes nominated will restrict the school's operation to within the parameters of the attributes if the board decides to provisionally accredit and ultimately fully accredit the school. The attributes can be changed on application from the school's governing body under Chapter 2, Part 3. If a school does not comply with these attributes, a ground for cancellation will arise. The aspects of the operation of the school will correspond to the attributes set out in subclause 16(3)(a)—(i), as well as any other attribute which may apply to the operation of the school.

Clause 17 requires that where an applicant indicates in an application for accreditation that government funding is required for the school, and the

board is satisfied that the school will not be operated for profit the board must as soon as practicable:

- give the Non-State Schools Eligibility for Government Funding Committee a copy of the application and copies of documents accompanying the application; and
- notify the Minister that the board has received the application and the date on which that application was received by the board.

This clause places an obligation on the board to supply the application to the committee as the committee is required to consider whether the applicant is eligible for Government funding and ultimately will make a recommendation on funding to the Minister.

The term "Government funding" is defined in the Dictionary in Schedule 3 (located at the end of the Act). Government funding can be given for any aspect of the operation of a school.

The term 'not operated for profit' is discussed in clause 7 (discussed above)

Subdivision 2—Provisional accreditation of schools

Clause 18 empowers the board to provisionally accredit a school if it is satisfied that:

- the applicant is suitable as the school's governing body in accordance with clause 39; and
- the school will be able to satisfy the requirements for accreditation within the school's provisional accreditation period.

A school will be provisionally accredited subject to the attributes set out in clause 16(3) (discussed above) as well as any other additional attribute agreed to by both the applicant and the board.

Once the board decides to provisionally accredit the school, it is required to issue a certificate of provisional accreditation to the school's governing body, as soon as practicable. Because the vast majority of applications for new schools will be made on the basis of plans, rather than on behalf of an established school, it is appropriate that there be a period of 'provisional accreditation', prior to accreditation of the actual school once it is established. Provisional accreditation will be granted to a school which is

not yet established but which, on the basis of its planning and progress to date, is expected to meet the full requirements of accreditation within the period set for its provisional accreditation of, and has a suitable governing body.

Clause 19 provides that where the board decides not to provisionally accredit the school, the board is required to supply an information notice to the school's governing body about that negative decision. The term 'information notice' is defined in the Dictionary in Schedule 3 (located at the end of the Act). Having regard to the operation of Clause 101(discussed below), the board's decision to refuse to provisionally accredit an applicant is a decision that may be reviewed under Chapter 4 of the Act. The decision refusing provisional accreditation takes effect at end of the review period if no application to review is made, or if an application to review is made, the day the review is finalised.

Clause 20 provides that where the applicant has applied for provisional accreditation and has indicated that the school requires government funding, the board is empowered to make a decision on an application before the Minister has reached a decision in respect of funding. The board however must await the decision of the Minister before determining the issue of accreditation, if the board intends to refuse the application for accreditation because the school is not financially viable (financial viability will be dealt with in one of the accreditation criteria to be prescribed in regulation). If the board has not yet made a decision with respect to accreditation, but receives notice of a negative decision from the Minister in respect of government funding, the board can not decide the question of accreditation until:

- the end of the period for review of the Minister's decision on funding, if no application to review is made, or;
- the day the review is completed (if an application to review the Minister's decision on funding is made).

Clause 21 provides that if in the application an applicant indicates that the school will be requiring government funding and the board does not make a decision on provisional accreditation within 9 months of receiving the application, the lack of decision is taken to be a decision by the board to refuse the application.

If in the application an applicant indicates that the school will not be requiring government funding and the board do not make a decision on provisional accreditation within 6 months of receiving the application, the lack of decision is taken to be a decision to refuse the application.

This clause is subject to the provisions in clause 22. The effect of this clause is to avoid inordinate delays in the decision-making and to provide applicants with review rights under Chapter 4 if delays occur, as opposed to the remedy afforded by the *Judicial Review Act 1991* which is costly and concerned only with process, not merit.

Clause 22 states that the final day for consideration by the board of an application (or the 'final consideration day') is:

- the day that is 9 months after the board's receipt of the application, where the application indicates that government funding is required;
- the day that is 6 months after the board's receipt of the application, where the application indicates that government funding is not required

This clause enables an extension of this period in which a decision on provisional accreditation is to be made, where the board considers it needs further time to make a decision because of the complexity of the matters to be considered. For example, the considerations may be complex because the governing body seeks to utilise a curriculum model which has not previously been considered by the board. Such an extension can occur where the applicant and the board, anytime before the final consideration day (discussed above), agree in writing on a day referred to as "the agreed extended day" by which the decision is to be made. If no decision is reached by the agreed extended day, the lack of decision is taken to be a decision to refuse the application.

Clause 23 requires a certificate of provisional accreditation to be in the form approved by the board. The certificate relates to the school itself and not the applicant. A school granted provisional accreditation is further required to display their certificate prominently.

Clause 24 provides that the period of provisional accreditation will be stated on the certificate of provisional accreditation. The period of provisional accreditation will be determined by the board. However, the last day of the period must be the day that is 12 months after the school's student intake day. The term 'student intake day' is defined in the Dictionary in Schedule 3 (located at the end of the Act).

The effect of this clause is that, subject to Clause 43, there is a limit on the amount of time for which a school can hold provisional accreditation without progressing further to full accreditation. One reason for this limit is to discourage applicants from using this mechanism simply to stake a

claim to a location, without a serious intention to develop a school at that point in time, where government funding is required.

Clause 25 makes it an offence for a governing body of a provisionally accredited school to operate the school prior to the school's student-intake day. A school is being operated if students are being educated.

Subdivision 3—Decision on applications

Clause 26 stipulates the board's power to request further information or documents at any time from the point when an application for accreditation is initially received until the school is either granted accreditation, or refused accreditation. The board must give the applicant a minimum of 30 days notice to comply with the board's request. If the applicant fails to comply with the requirements of the board's notice the applicant is taken to have withdrawn the application. When giving a notice, the board must have regard to the time remaining to make the decision.

Clause 27 requires the board to consider an application for accreditation, and to decide either to accredit or refuse to accredit, the applicant's school. The board can only decide to accredit a school that is provisionally accredited. The board may make the decision to accredit a provisionally accredited school, if the board after assessing the school under sections 32-34 (Chapter 2, Part 2, Division 2, Subdivision 4) is satisfied that the school is complying with the accreditation criteria. If satisfied, the board then accredits a school (subject to attributes under clause 16(3) and any other attributes agreed upon between the board and applicant).

Clause 28 sets out the action the parties must take when the board makes a decision in relation to accreditation.

If the board decides to accredit the school, the following obligations are imposed on the parties:

- The board must as soon as is practicable, issue a certificate of accreditation to the governing body.
- As the school's provisional accreditation is cancelled upon receipt of the certificate of accreditation, the governing body must return to the board, the certificate of provisional accreditation within 14 days of receipt of the certificate of accreditation.

- If the board decides not to accredit the school it is required to issue an information notice to the governing body as soon as is practicable. The board's decision takes effect and the school's provisional accreditation is cancelled from the later of:
  - the day of effect stated in the information notice; or
  - the last day to apply, under Chapter 4, to have the decision reviewed; or
  - the day the application for review is decided or otherwise disposed of (under Chapter 4).

The term "information notice" is defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 29 provides that if the board fails to decide the application for accreditation within the school's provisional accreditation period, the board is taken to have refused the application for accreditation. Cancellation of the school's provisional accreditation and the decision to refuse accreditation take effect on the later of:

- the last day to apply, under Chapter 4, to have the decision reviewed; or
- the day the review has been completed (if an application for review has been made).

This clause is subject to any extension of time under clause 30 (discussed below).

Clause 30 enables the board to extend time-frames in which to make a decision because of the complexity of the issues that need to be considered in reaching a decision. Extension of time-frames can only occur if, prior to the last day of the school's provisional accreditation period, the board and the applicant agree in writing on a new date (the 'agreed extended day') by which the application is to be decided. If by this 'agreed extended day' the board has not decided an application, the board is taken to have refused the application.

Clause 31 requires the school's governing body to return the school's certificate of provisional accreditation where the board has:

- refused to accredit the school (under clause 27 and 28(4) discussed above); or
- failed to make a decision on an application (under clauses 29 or 30, both discussed above) and is therefore deemed to have refused the application.

In these two circumstances, the school's governing body must return the school's certificate of provisional accreditation to the board within 14 days of the decision taking effect, unless the governing body has a reasonable excuse. Subclause 31(2) makes it an offence, for the governing body to fail to return the certificate in the manner provided. However, a governing body does not have to return the certificate of provisional accreditation if they have been successful in a review of the decision and the decision was overturned.

Subdivision 4—Assessment of schools

Clause 32 provides that the board must start an assessment of the school to decide whether the school is complying with the accreditation criteria after the assessment day. The "assessment day" is either:

- a day agreed to by both the applicant and a board; or
- a day of which the board notifies the applicant. This day must be minimum of 60 days after the giving of notice and a maximum of 6 months before the expiry of the school's provisional accreditation.

This assessment is intended to inform the board in making a decision under clause 27 whether or not to fully accredit the provisionally accredited school.

Clause 33 provides that for an assessment under subdivision 4, the board is required to obtain a written report from an assessor about whether the school is complying with the accreditation criteria. In preparing the report the assessor must enter the premises (pursuant to Clause 147 discussed below) and exercise the powers bestowed on him or her under section 149.

Clause 34 provides that the school's provisional accreditation is extended for a period of 12 months if after the initial assessment of a school (under clause 32), the board:

- is satisfied that the applicant is suitable to be the school's governing body (in accordance with Clause 39);
- is not satisfied the school is complying with the accreditation criteria;
- but is satisfied that the school will comply with the accreditation criteria within 12 months after the end of the provisional accreditation period.

The phrase "extended for a period of twelve months" means that 12 months are added on to the school's original provisional accreditation period.

. In these circumstances, the board is required to do the following:

- notify the governing body of the outcome of the assessment as soon as practicable;
- issue the governing body with another certificate of provisional accreditation stating the school's extended provisional accreditation period as soon as practicable;
- conduct another assessment of the school to decide whether the school is complying with the accreditation criteria, before the end of the school's extended provisional accreditation period. This assessment can only be conducted if the board has given the applicant notice of the assessment within a reasonable minimum time of 30 days before the start of the assessment.

Subclause 34(6) empowers the board to conduct no more than three assessments of a school under this clause. This means that once a school has started to provide education to students under its provisional accreditation it has a maximum of 2 years to comply with the accreditation criteria. This gives a school a maximum of 4 chances to get its operations up to the minimum prescribed standard.

Subdivision 5—Certificates of accreditation

Clause 35 provides that the certificate of accreditation:

- must be in the form approved by the board;
- attaches to the school rather than the applicant;
- must be displayed by the school's governing body, in a prominent place at the school.

Division 3—Additional assessment of certain schools

Clause 36 provides that Division 3 applies to a school that was an establishment phase school, that is, an accredited school that is allowed under its accreditation to provide education within a sector of schooling,

but is yet to start educating students within that sector of schooling. "Sector of schooling" means any of the following years of schooling: P-3; 4-7; 8-10; 11-12. Therefore a school that is accredited to provide primary education in years 1-7 but is yet to commence any of the years 4-7 is an establishment phase school. Division 3 will apply to that school once it starts operating any of the years 4-7 so as to enable the board to assess the school's operation in that sector of schooling to decide whether it is complying with the accreditation criteria. A school will also be an establishment phase school where a school is accredited for primary education, with the attribute of only providing years 1-3, and later applies to vary its attributes of accreditation to be able to offer years 4-7 as well. The terms "establishment phase school" and "sector of schooling" are defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 37 provides that the board must commence an assessment of the school to determine if the school is complying with the accreditation criteria, within 14 days after the assessment day. In this clause, the term "assessment day" is defined as the day that is either agreed upon by the board and the governing body or the day decided by the board. If the board decides the assessment day, the board must notify the governing body of the nominated day. Also, the assessment day nominated by the board must occur between 6 months after the sector student intake day and the end of the last year of schooling for the sector of schooling. The term "sector student intake day" is defined in Schedule 3 (located at the end of the Act). The board can conduct no more than 2 assessments of the school for the same sector of schooling. For example, a school starting to operate within years 4-7 may be assessed twice during those years. Further assessments may be conducted under this clause when the school commences operation in another sector of schooling, such as years 8-10.

Clause 38 provides that for an assessment for determining whether the school is complying with the accreditation criteria (under clause 37—discussed above), the board must obtain a written report from an assessor. Subclause 38(2) provides that in order to prepare the report, the assessor must enter the school's premises and exercise powers pursuant to Chapter 5, Part 3.

Division 4—Investigation of suitability of school's governing body

Clause 39 provides that where a board is determining any of the following questions:

- whether an applicant for accreditation of a school is suitable to be the school's governing body;
- whether the governing body of a provisionally accredited or accredited school is suitable to continue to be the school's governing body;
- whether the proposed governing body of a provisionally accredited or accredited school would be suitable to be the school's governing body,

A governing body is unsuitable if any of the governing body's directors do not have a current positive notice to carry on a regulated business. These notices are issued by the Commission for Children and Young People. The term "director" is defined in the Dictionary in Schedule 3 (located at the end of the Act).

In making its decision as to suitability, the board may also have regard to the following factors:

- the nature and circumstance of the commission of an offence, if any director of the governing body has been convicted of an indictable offence; and
- the nature and circumstance of the commission of an offence if the governing body has been convicted of an offence.

Clause 40 empowers the board to investigate:

- an applicant for accreditation to help determine whether the applicant is suitable to be the school's governing body;
- the governing body of a provisionally accredited or accredited school to help determine whether the governing body is suitable to continue to be the school's governing body;
- the proposed governing body of a provisionally accredited or accredited school to help determine whether the proposed governing body would be suitable to be the school's governing body

Clause 41 empowers the board investigating the governing body or proposed governing body under clause 40, to seek from the Commissioner of police a report about the criminal history of the body or an executive member of the body and a brief description of the circumstances of any conviction disclosed. This clause obliges the Commissioner to comply with a request for this information to the extent of supplying information to which the Commissioner has access.

Division 5—Periodic demonstration of compliance with accreditation criteria

Clause 42 empowers the board to request the supply of documents from an accredited school's governing body once every 5 years for the purpose of assisting the board in deciding whether the school is complying with the accreditation criteria. The request is to be made by notice to the governing body. The clause provides that the governing body must supply the requested documents within 6 months after the notice is issued by the board. This clause puts the onus on the accredited school to periodically demonstrate, when requested by the board, that it is continuing to comply with the prescribed accreditation criteria.

PART 3—CHANGES IN PROVISIONAL ACCREDITATION PERIOD, ATTRIBUTES OF PROVISIONAL ACCREDITATION OR ATTRIBUTES OF ACCREDITATION

Division 1—Changes in provisional accreditation period

Clause 43 empowers the board to extend or reduce the school's provisional accreditation period upon application of the provisionally accredited school. The board may extend or reduce the provisional accreditation period even if it has already extended or reduced the period under this clause. An application to extend or reduce the provisional accreditation period must be made to the board in the approved form a minimum of 90 days prior to the school's student intake day. The application must also be accompanied by any fee prescribed by regulation. Subclause 43(4) sets out an exemption from this minimum 90 day period. This subclause provides that board may consider an application lodged outside this minimum period if the board is satisfied that unforseen circumstances, mentioned in subclause 46(2) (discussed below), arose during the 90 day period.

Clause 44 empowers the board to obtain from the applicant further information or documents reasonably required to make a decision on the application to change the provisional accreditation period. The board must

give the applicant at least 30 days to provide documents or information requested under this clause. If the applicant fails to comply with the requirements of the board's notice, the applicant is taken to have withdrawn the application. When giving a notice, the board must have regard to the time remaining for the board to decide the application.

Clause 45 provides for default 'no' decisions where the board has not decided an application for either an extension or reduction of the school's provisional accreditation period. Where an application is for an extension of the school's provisional accreditation period and the board fails to make a decision on the application before the end of the school's student intake day, the failure is taken to be a decision by the board to refuse the application. Where the application was for a reduction in the school's provisional accreditation and the board fails to make a decision before the end of the school's proposed new student-intake day, the failure is taken to be a decision of the board to refuse the application.

Clause 46 requires the board to consider and decide all applications for an extension or reduction in the school's provisional accreditation period. The board's resulting decision must be one of the following:

- to extend the school's provisional accreditation period in the way sought in the application only if the board is satisfied that unforseen circumstances prevent the school from complying with the accreditation criteria within the period, giving the school's governing body notice of the decision; or
- to extend the school's provisional accreditation period in a way that is different to that sought in the application only if the board is satisfied that unforseen circumstances prevent the school from complying with the accreditation criteria within the period; or
- to refuse to grant the application to extend the school's provisional accreditation period, giving the school's governing body an information notice of the decision as soon as is practicable; or
- to reduce the school's provisional accreditation period in the way sought in the application if the board is satisfied that the school will comply with the accreditation criteria within the reduced period, giving the school's governing body notice of the decision; or
- to reduce the school's provisional accreditation period in a way that is different to that sought in the application only if the board is satisfied the school will comply with the accreditation criteria

within the reduced period, giving the school's governing body an information notice of the decision as soon as is practicable; or

- to refuse to grant the application to reduce the school's provisional accreditation period giving the school's governing body an information notice of the decision as soon as is practicable.

The term "Unforseen circumstances" is intended to cover situations where, through no fault of the governing body, the school is unable to comply with the accreditation criteria at the end of the period of provisional accreditation, for example, where the requisite approvals from the local council have not been forthcoming.

Clause 47 places obligations on both the school's governing body and the board where a change is made to a school's provisional accreditation period. This clause provides for two circumstances:

1. where the board makes a decision to extend or reduce the school's provisional accreditation period in the way sought in the application, the school's governing body is required to return the certificate of provisional accreditation to the board within 14 days after receiving a notice of the decision. After receiving the certificate the board must then issue another certificate of provisional accreditation, reflecting the changes to the school's provisional accreditation period; and

2. where the board decides to extend or reduce the school's provisional accreditation period in a way that is different to that sought in the application, the school's governing body is required to return the certificate of provisional accreditation to the board within 14 days of the board's decision taking effect under subclause 46(6) (that is- on the last day to apply for the decision to be reviewed, under Chapter 4 or if an application has been made to have the decision reviewed, the day the application is finalised). Once the certificate is received by the board, the board is required to issue another certificate of provisional accreditation reflecting the changes to the school's provisional accreditation period.

Clause 48 provides for the fixing of a new student-intake day where a change is made to the provisional accreditation period of a school that is not yet operational. This clause provides for two circumstances:

1. where the board decides, on consideration of an application, to extend a school's provisional accreditation period in any way,

and the school in question is not yet operational, the school's student-intake day is changed to the day that is 12 months before the last day of the extended period; and

2. where the board decides, on consideration of application, to reduce the school's provisional accreditation period in any way, and the school is not yet operational, the school's student intake day is changed to the day that is 12 months before the last day of the reduced period.

The effect of these provisions is to ensure that following the student intake day a minimum 12 month period of provisional accreditation is specified to allow for sufficient time for the school to comply with accreditation criteria and for assessment of the school by the board prior to the accreditation decision being made.

Division 2 –Changes in attributes of provisional accreditation

Clause 49 enables the governing body of a provisionally accredited school to apply for a change to an attribute of provisional accreditation, in the form approved by the board, with payment of any fee imposed by Regulation. If the form requires it, information in the application must be verified by a statutory declaration.

If the application relates to a change in the school's governing body the application must be accompanied by copies of current positive notices (obtained from the Commission for Children and Young People) for all directors of the proposed governing body.

Clause 50 places obligations on the board where:

- the applicant is eligible for government funding for the school; and
- the application relates to a change in an attribute of provisional accreditation, other than a change to the schools governing body; and
- the change relates to an aspect of the operation of the school for which the governing body is eligible for government funding for the school

In these situations, the board's obligations are as follows:

- the board must as soon as practicable give the Committee a copy of the application and copies of documents accompanying the application;
- the board must give a notice to the Minister stating that the application was received by the board and the date of the receipt of that application.

Clause 51 provides that where it reasonably requires further information or documents to decide an application for a change in an attribute of provisional accreditation, the board is empowered to require the applicant to supply to the board, that further information or documents. This requirement is by notice. The time in which the governing body must comply with this request must be stated in the notice and is a minimum reasonable time of 30 days. Failing to comply with a notice is to be taken as the applicant withdrawing the application.

The board must have regard to the time remaining (see clause 53) to make the decision. This requirement indirectly ensures that the board considers an application promptly, so that if further documents of information are required to facilitate the making of the decision, the notice is given in a timely fashion, allowing sufficient time upon receipt of the further evidence to consider it and come to a decision within time.

Clause 52 requires the board to consider an application to change an attribute of provisional accreditation and either grant or refuse the application. If the application pertains to a change in the school's governing body, the board may grant the application only if the board is satisfied that the proposed governing body is suitable to be the school's governing body (see clause 39). A change in a school's governing body does not mean a change in the membership of the governing body. A change in a school's governing body means that a different governing body is to operate the school. A governing body will be considered to be different if the name under which the governing body is incorporated is changed.

If the application pertains to a change in an attribute of provisional accreditation, other than a change in the school's governing body, the board may grant the application only if the board is satisfied that, if the change is effected, the school will comply with the accreditation criteria.

Where the board decides to grant an application for change to an attribute of provisional accreditation, the board is required as soon as practicable to issue a written "change notice" to the applicant stating the decision.

If the change notice pertains to a change in an attribute of provisional accreditation, the notice must state the day before which the change must be effected.

If the board decides to refuse the application for change to an attribute of provisional accreditation, the board is required as soon as is practicable to issue the applicant with an information notice.

Any approved change is to take effect on the day the notice is given to the applicant.

Clause 53 provides for default decisions where the board has not made a decision within stated periods. If the application concerns a change in the school's governing body and the decision is not made within 6 months after the receipt of the application, the decision is deemed to be a refusal of the application.

If the application relates to a change in an attribute of provisional accreditation other than a change in the school's governing body and:

- the applicant is eligible for Government funding for the school and the board fails to decide the application within 9 months after its receipt; or
- the applicant is not eligible for Government funding for the school and the board fails to decide the application within 6 months after its receipt,

that failure is taken to be a decision by the board to refuse the application.

Clause 54 provides that where the funding committee receives copies of an application and accompanying documentation for a change to an attribute of provisional accreditation, the funding committee is required to do the following:

- Consider the application. In considering the application the committee must have regard to the eligibility for Government funding criteria, as if the change had been effected. For example, a school may have applied to change its attribute restricting it to offer single-sex education to offer a co-educational program. The committee should consider what impact the changed coeducational school will have on any other State or non-State schools in the catchment area.
- Make a recommendation about whether, if the change to the attribute is effected, the applicant would still be eligible for Government funding as far as it relates to the 'relevant

operational aspect'. That is, an aspect of the operation of the school for which the governing body is eligible for Government funding for the school.

- Communicate that recommendation to the board as soon as possible after making it.

The recommendation of the funding committee must include the reasons for the recommendation.

The committee must give the recommendation to the board. On receiving the recommendation from the committee, the board is required to communicate the recommendation to the Minister as soon as possible after receiving it.

Clause 55 provides that after receiving a recommendation from the board under clause 54 (discussed above), the Minister must decide whether the school is to be eligible for Government funding for the proposed change to the school. In making the decision the Minister must have regard to the recommendation (although not bound by it) and the eligibility for Government funding criteria, as if the change had been effected, in making the decision. This will enable the Minister to consider the effect of the proposed change on other schools by reference to the criteria relating to impact, growth and unfilled capacity. The Minister will also consider the element of choice and minimum enrolments.

Where the Minister decides that if the change is effected, the applicant would still be eligible for Government funding for the school as far as it relates to the relevant operational aspect, the Minister must as soon as is practicable give the applicant and board notice of the decision.

Where the Minister decides that if the change is effected, the applicant would no longer be eligible for Government funding for the school as far as it relates to the relevant operational aspect, the Minister must as soon as practicable:

- give the applicant an information notice about the decision; and
- give the board notice of the decision.

If the board has not received a notice of the decision, the board may proceed to make a decision on the application for the change, but cannot make a decision to refuse the change based on an opinion that the school does not have access to sufficient financial resources.

Under this clause it may be possible for a school to be eligible for Government funding for some aspects of its operation but not others. For

example, a school may be eligible for Government funding for years 8-10, but not for years 11 to 12.

Clause 56 places obligations on both the governing body and the board, where a change is made to the attributes of provisional accreditation and the change relates to an attribute recorded on the certificate of provisional accreditation. When the governing body of a school receives the change notice, the governing body must return the existing certificate of provisional accreditation to the board within 14 days of receiving the notice.

On receipt of the certificate from the governing body, the board must then issue a replacement certificate of provisional accreditation to the governing body, stating the details of the attribute to be changed and the date by which the change must be made. Subclause 56(4) states that the board's failure to issue a replacement certificate does not affect the validity of the change. This is to avoid any detriment flowing from an administrative oversight or an undue delay in issuing a fresh certificate.

Clause 57 provides that where:

- a governing body receives a change notice about a attribute of provisional accreditation; and
- the governing body fails to effect the change before the change day stated in the notice,

the notice is taken not to have been given by the board to the governing body. As a consequence, the governing body is required to return the newly issued certificate of provisional accreditation to the board within 14 days of the change day stated upon it.

The board upon receipt of the certificate of provisional accreditation, must then issue the governing body with a replacement certificate that does not state the attributes of the changes.

This provision ensures for consumer protection purposes that a school is displaying an accurate certificate at any given time.

Clause 58 provides for automatic change of a governing body's application for accreditation where a school's governing body has applied for and been granted a change in the attribute of provisional accreditation, the application for accreditation of the school that is yet to be decided by the board, is taken to be amended to also reflect the changes in the change notice.

Division 3—Changes in attributes of accreditation

Clause 59 provides that an application for a change in attribute of accreditation is to be dealt with by the same procedure as an application for a change in an attribute of provisional accreditation. Chapter 2, Part 3, Division 2 will apply to such an application except for clause 58, as if accreditation were provisional accreditation.

Clause 60 provides that where an establishment phase school for a sector of schooling does not start to operate, within that sector of schooling, on the school's sector intake day for that sector, the attribute relating to years of schooling it is allowed to offer is taken to be changed so as not to include the years of schooling in that sector. The attribute of accreditation relating to that school about the school's sector student intake day for the sector of schooling is taken to no longer apply to the school. In addition, the school stops being an establishment phase school for the sector of schooling.

If the school's certificate of accreditation states either the attribute about the years of schooling it is allowed to offer, or the school's sector intake date for that sector of schooling that has not commenced, the governing body is required to return the certificate of accreditation to the board within 14 days after the schools sector student-intake day for the sector of schooling. Upon receipt of the certificate, the board must issue a replacement certificate of accreditation.

PART 4—CANCELLATION OF ACCREDITATIONS OR PROVISIONAL ACCREDITATIONS

Division 1—Giving of compliance notices

Clause 61 sets out a compliance process where the board believes, on reasonable grounds that an accredited school is either not complying with an accreditation criterion or has not complied with an accreditation criterion such that it is likely that non-compliance will continue or be repeated. If the matter relating to non-compliance is reasonably capable of being rectified, and it is appropriate to give the school's governing body an opportunity to rectify the matter, the board may issue a compliance notice requiring the governing body to rectify the matter. A compliance notice

can only be issued if a show cause notice has not been given pursuant to clause 64 (discussed below).

Subclause 61(3) requires the compliance notice to:

- state that the board believes that the school is either not complying with the accreditation criteria or has not complied with a criterion such that a continuation or repetition of the non-compliance is likely;
- identify the accreditation criterion that the board believes is the subject of non-compliance;
- briefly state how it is believed that the accreditation criterion is not being complied with;
- state the matter relating to non-compliance that the board believes is reasonably capable of rectification;
- state the reasonable steps the governing body must take to rectify the matter;
- state a reasonable period in which the governing body must comply with the compliance notice.

This clause obliges compliance with compliance notice by the governing body unless the governing body has a reasonable excuse.

The board may form a reasonable belief that a school is not complying with the accreditation criteria on the basis of a complaint for a member of the public.

Clause 62 empowers the board to obtain a written report about a breach of an accreditation criterion from an assessor, before deciding whether to issue a compliance notice under clause 61. In preparing this report, the assessor must enter the school's premises and exercise powers pursuant to Chapter 5, Part 3.

Division 2—Cancellation of accreditations

Clause 63 empowers the board to cancel a school's accreditation in any of the following circumstances:

- The school gained accreditation due to a materially false or misleading representation or declaration.
- The school's governing body is not a corporation

- The school's governing body is not or has ceased to be suitable to be the school's governing body (pursuant to clause 39—Suitability of governing body).
- The school is not or has not complied with an accreditation criterion.
- There is or has been non-compliance with an attribute of accreditation applying to the school. For example, a school accredited with the attribute of providing years 8 to10 providing year 11, or a school providing education at a location that is not listed as an attribute of the accreditation.
- The school's governing body has not given the board documents required under clause 42 (Demonstration of compliance).
- If documents that have been supplied pursuant to a request under clause 42 are inadequate in helping the board to decide whether the school is complying with the accreditation criteria.

Clause 64 empowers the board to give the governing body a show cause notice where:

- the board believes a ground exists to cancel the accreditation of the school; and
- the board has not/does not propose to give the governing body a compliance notice pursuant to clause 61.

If the board has issued a compliance notice to the governing body pursuant to Clause 61 and the governing body without reasonable excuse, has failed to comply with the compliance notice within the period stated, this clause empowers the board to issue a show cause notice to the governing body.

The show cause notice must set out:

- the action the board proposes taking under Chapter 2, Part 4, Division 2;
- the grounds for that action;
- an outline of the facts and circumstances forming the basis for the grounds;
- an invitation for the governing body to state, or show cause, why the action proposed by the board should not be taken.

The period stipulated in which the governing body is to show cause is a minimum of 30 days after the show cause notice is given to the governing body.

Clause 65 provides that any response by a governing body to a show cause notice, issued under clause 64, can be made in the form of written submissions to the board. These submissions must be made within the show cause period. The clause further requires that the board must consider all such written submissions. This requirement ensures that principles of procedural fairness are preserved in that due consideration must be given by the board to any documented response by the governing body.

Clause 66 provides that if, after considering written submissions made by a governing body in response to a show cause notice issued under clause 64, the board no longer believes the ground exists to cancel the accreditation, the board can not proceed any further with respect to the show cause notice. In this situation, the board is further required to give notice that no further action will be taken against the governing body in respect of the show cause notice. This notification requirement is designed to reassure a governing body that it has satisfied the board that grounds to cancel the accreditation no longer exist and that no further action will be taken.

Clause 67 provides that the board may decide to cancel accreditation where:

- the board has considered the written submissions made by the governing body in response to a show cause notice, and still believes that grounds exist to cancel the accreditation and that cancellation is still warranted; or
- the governing body has not made any written submissions at all in response to the show cause notice issued by the board.

Where it decides to cancel accreditation, the board is required to give the school's governing body an information notice to that effect as soon as is practicable. A decision to cancel accreditation takes effect on:

- the last day to apply, under Chapter 4, to have the decision to reviewed; or
- the day the review is decided or otherwise disposed of (if an application is made to have the decision reviewed under Chapter 4).

The term "information notice" is defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 68 provides that the governing body of a school must return the certificate of accreditation if it receives an information notice advising that the accreditation has been cancelled, and that decision takes effect. The certificate must be returned within 14 days of the decision taking effect, unless the governing body has a reasonable excuse. Subclause 68(2) makes it an offence for the governing body to fail to return the certificate in the manner prescribed. However, failure to return the certificate as prescribed in subclause 68(2) is not an offence where the governing body applied to have the decision to cancel accreditation reviewed under Chapter 4, and succeeded in having the decision overturned.

The rationale for requiring certificates of accreditation returned where accreditation is cancelled is to guarantee that schools no longer reaching the standards of accreditation required do not continue to hold themselves out to be accredited schools. This offers consumer protection.

Division 3—Cancellation of provisional accreditations

Clause 69 provides that division 2 also applies to cancellation of provisional accreditation except clause 63 (grounds for cancellation) and subclause 64(1)(b) (concerning the compliance notice process).

Clause 70 provides that the grounds for cancelling the provisional accreditation of a school are as follows:

- The school gained provisional accreditation due to a materially false or misleading representation or declaration; or
- The school's governing body is not a corporation; or
- The school's governing body is not or has ceased to be suitable to be the school's governing body.

The school is operating outside the scope of the attributes or accreditation that apply to the school. For example, a school accredited with the attribute that they teach years 8-10 teaching year 11.

CHAPTER 3—GOVERNMENT FUNDING

PART 1—MINISTERIAL RESPONSIBILITY, AND RESTRICTIONS ON APPLICATIONS, FOR GOVERNMENT FUNDING

Clause 71 provides that the Minister ultimately decides whether a school's governing body is eligible for Government funding for the school. An application for Government funding will be considered by the funding committee, constituted especially for that purpose in Chapter 5, Part 2. The committee must consider the application against the requirements of the eligibility for government funding criteria, and make a recommendation to the Minister that is communicated via the board. The Minister then makes a decision on eligibility for funding after considering the recommendation. The Minister is not bound by the committee's recommendation but must have regard to it when making the decision. As such, eligibility for Government funding is ultimately at the discretion of the Minister.

Only schools which are provisionally accredited or accredited may be granted State funds.

Clause 72 provides that a governing body that has been unsuccessful in an application for Government funding cannot lodge a fresh application in relation to the same aspect within a period prescribed by regulation. This is because the circumstances pertaining to the eligibility for funding criteria are unlikely to change significantly in the short term. An applicant who is assessed as ineligible for Government funding will be free to operate as a school under alternative financial arrangements provided it achieves accreditation.

PART 2—APPLICATIONS FOR GOVERNMENT FUNDING

Clause 73 enables the governing body of an accredited school that is operated on a not for profit basis to apply for Government funding for the school. An application for funding will be made to the committee, in the form approved by the board, with any fee prescribed by a Regulation.

Public funding will only be available to a not-for-profit school. There is not a general prohibition on 'for profit' schools. Under this Act they can exist if their quality is assured through the accreditation process, and they are financially viable without public funding.

As Government funding for a school is defined as funding for any aspect of the operation of the school, a governing body can apply for Government funding for all or any part of a school's operation. For example, a governing body can apply for funding for certain years of a school's operation and not other years. A school may also apply for Government funding for a certain site of the school's operation but not other sites.

Clause 74 has the effect of automatically deeming an applicant for accreditation as an applicant for Government funding where such an application has been supplied to the committee by the board under clause 17. An application for Government funding is deemed to have been made on the day that the board received the application for accreditation.

PART 3—PUBLIC NOTIFICATION OF APPLICATIONS

Division 1—Preliminary

Clause 75 provides that the public notification requirements apply to applications made for Government funding, whether the application is made as part of an application for accreditation, or as part of an application to change the attributes of provisional accreditation or accreditation, where the change relates to an aspect of the school's operation for which the governing body is eligible for Government funding or if a school in operation that is not eligible for Government funding has applied for such eligibility. For example, an accredited school may, as part of the accreditation attributes, be accredited to provide primary education at a particular site. The school is eligible for Government funding for its operations at that site. The school now applies to relocate its primary school to another site, and makes an application under clause 49 to change the location attributes of its accreditation. In the process of the application as to whether the school will continue to be eligible for Government funding, the Committee is precluded from making a recommendation if the public notification division provisions have not been complied with.

Division 2—Public notification requirements

Clause 76 provides for public notification procedures to be observed by non-State schools under this Act.

If the school solely offers distance education, the applicant is required under subclauses 76(1) and (2) to, within 7 days of making the application:

- give the catchment area notice to both the governing body of any other distance education school in Queensland and the principal of any State school offering distance education in Queensland; and
- publish the catchment area notice at least once in a newspaper circulating in Queensland.

If the school offers any other type of education other than pure distance education, for example classroom education or a combination of classroom education and distance education, then the applicant is required under subclauses 76(3) and (4) to, within 7 days of making the application:

- give the catchment area notice to both the governing body of any other school operating in the school's catchment area and the principal of any State school operating in the school's catchment area; and
- publish the catchment area notice at least once in a newspaper circulating throughout the school's catchment area.

A school that applies for eligibility for Government funding for a combination of distance and classroom education is likely to have to publish the notice in a newspaper circulating the State, and provide copies to all governing bodies and principals of other school in Queensland offering distance education in order to satisfy the publication requirements. This is so because a school offering distance education is potentially drawing students from anywhere in the State, which may be detrimental, at least to other State or non-State schools offering distance education.

Subclause 76(7) requires that all applicants, irrespective of the type of education offered, must give the catchment area notice to the Chief Executive, the Executive director, Association of Independent Schools of Queensland (AISQ) and the Executive Director, the Queensland Catholic Education Commission (QCEC).

The term "catchment area" is defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 77 requires the catchment area notice, that is published in the manner prescribed in clause 76 (discussed above) to state at the minimum, the following matters:

- the name and address of the applicant;
- a brief description of the application;
- the school's location;
- a description of the school's catchment area;
- where the application may be inspected;
- where copies or part copies of the application may be obtained;
- that any person is entitled to make a submission to the committee about the application;
- the period during which submission can be made. The stated period must be a minimum of 30 days after the publication of the catchment notice;
- how to make a submission;
- any other matter prescribed under a regulation.

Requiring the inclusion of this minimum information on a catchment notice that circulates in the public domain, ensures that members of the public have sufficient information to act upon if they wish to make a submission on the application.

The proviso in subclause 77(2) that the minimum stated submission period is 30 days after the publication of the catchment area notice in the newspaper, ensures that members of the public have sufficient time in which to prepare a submission with respect to an application for eligibility for Government funding.

Clause 78 provides that where an applicant publishes a catchment area notice pursuant to subclause 76(2)(b) or 76(4)(b), the applicant is required to give the committee within 10 business days, a notice containing the following information:

- whether or not the applicant has, in relation to the application, complied with the requirements mentioned in clause 76; and
- the name and address of each person to whom the catchment area notice was given under clause 76.

Subclause 78(2) requires that a copy of the published catchment area notice is attached to notice.

The committee must be satisfied that the applicant has complied with the notice requirements before making a recommendation under clause 85.

Division 3—Submissions

Clause 79 enables any person to make a submission to the committee about an application. The submission can only relate to issues relevant to a consideration of the eligibility for Government funding criteria. The submission must be made within the submission period as stated in the catchment area notice.

Government funding of non-State school involves a significant amount of public monies, and on that basis, members of the public should be allowed to comment on that issue. Issues other than issues pertaining to the eligibility for Government funding criteria are not relevant to this part of the process, and members of the public are free to, at any time, bring other issues relating to non-State schools to the notice of the board.

Clause 80 imposes a mandatory requirement that the committee accept a 'properly made submission'. To be 'a properly made submission', a submission must possess each of the following characteristics:

- it is in written form;
- it is signed by each person who makes the submission;
- it states the name and address of each signatory;
- it is made to the committee; and
- it is received on or before the last day of the submission period.

Subclause 80(3) however gives the committee a discretion to accept a written submission even if it does not possess each of the characteristics listed above. For example, the committee may accept a submission that is late. The provisions of this clause reflect the desirability of a standardised approach to the consideration of submissions. A standardised approach to the consideration of submissions is facilitated by submissions conforming to a minimum standard. By virtue of subclause 79(2), the committee needs not consider the parts of a properly made submission that do not address the eligibility for Government funding criteria.

Clause 81 imposes obligations on both the committee and applicants in relation to submissions received. Subclause 81(1) requires the committee to give the applicant copies of all submissions received and accepted by the

committee within 10 days after the end of the submission period. Subclauses 81(2) and (3) then require the applicant to consider the submissions received and supply the committee with a response to the submissions. These responses must be supplied to the committee within a relevant period. This relevant period is the later of the following periods to end:

- 20 business days after the applicant is given copies of all submissions accepted by the committee; or
- if the committee and applicant have within the 20 days, agreed to a longer period, the longer period.

Division 4—Public access to applications

Clause 82 provides that the committee is required to allow the public to inspect an application (including any accompanying documents), free of charge. The committee must make the application and accompanying documents available for inspection by the public at the board office, during ordinary office hours. The term "ordinary office hours" is to be given its ordinary meaning—that is 9am –5pm, Monday to Friday inclusive. This provision is consistent with the view that the public should have free access to information concerning the proposed use of public funds.

Also, the applicant must allow a person to inspect the application at the applicant's registered office. A person is entitled to inspect both the completed application form and any documents lodged with the application.

Clause 83 requires the applicant to supply a copy of the application, or part of the application to any person who requests it, free of charge. This clause does not require the applicant to supply a copy of the documents accompanying the application. A person will however be able to peruse these documents at the board office as discussed in relation to clause 82 above.

Some of these documents may be protected by copyright or may contain intellectual property of the applicant or third party. The documents may also contain commercially sensitive information. By enabling a person to inspect the full application at the board's office, as well as at the applicant's registered office, a person wanting to make a submission should have a reasonable opportunity to appraise himself or herself of the entire evidence that has been submitted to the committee by the applicant.

Division 5—Non compliance with public notification requirements

Clause 84 provides for the procedure where the committee is not satisfied that the applicant has complied with the notice requirements imposed in clause 76. The committee can take either of two courses of action in such a situation:

1. The committee can accept that there has been substantial compliance with the notification requirements and make a recommendation about eligibility for Government funding under clause 85.
2. The committee can issue an outstanding notice requirement informing the applicant what they must do to meet the public notification requirements, and the time within which this action must be completed. If the committee is satisfied that there has been substantial compliance with the outstanding notice requirement, the committee can make a recommendation to the Minister. If the committee is not satisfied that there has been substantial compliance with the outstanding notice requirement, the committee must not make a recommendation to the Minister and must notify the Minister, the board and the applicant that no recommendation will be made.

PART 4—RECOMMENDATIONS BY COMMITTEE ABOUT APPLICATION FOR GOVERNMENT FUNDING

Clause 85 places obligations on both the committee and the board with respect to applications received by the committee to be considered eligible for eligibility for Government funding and the sequence in which these obligations are to be discharged. When an application for Government funding is received by the committee, the committee must:

- consider the application;
- make a recommendation about whether the applicant is eligible for Government funding; and
- give the recommendation to the board as soon as practicable after making the recommendation.

The board must give the recommendation to the Minister as soon as is practicable after receiving it. The recommendation must contain the reasons for the recommendation.

Subclause 85(3) sets out the criteria that the board must have regard to when considering an application for Government funding for a school that is not yet in operation.

Distinguished from subclause 85(3) is subclause 85(4) that sets out the criteria that the board must have regard to when considering an application for eligibility for Government funding for a school that is already in operation.

The purpose of these criteria is to ensure that State funds support schools which meet a community need. The committee will consider impact, choice, minimum enrolment thresholds, school age population growth and unfilled enrolment capacity.

Clause 86 provides the matters to be taken into account when considering the criterion in subclause 85(3)(a) and 85(4)(a). That is, the likely impact the operation of the school will have on other schools in the catchment area, in relation to making a decision on eligibility for Government funding for a school.

Subclause 86 (1) stipulates that in considering an application for eligibility for Government funding for a school that is not yet in operation and having regard to the criteria about the likely impact the operation of the school will have on any other schools or State schools operating in the school's catchment area within 5 years after the school's student-intake day (pursuant to clause 85(3)) the committee must have regard to the matters in subclause 86(1). That is:

- whether there is likely to be a reduction in enrolments at any of the other schools or State schools within the 5 year period because of the establishment of the school;
- whether there is likely to be a reduction in curriculum offerings at any of the other schools or State schools within the 5 year period because of the establishment of the school;
- whether there is likely to be a closure of any of the other schools or State schools within the 5 year period because of the establishment of the school.

When considering an application for eligibility for Government funding for a school that is in operation and having regard to the criteria about the likely impact the operation of the school will have on any other schools or

State schools operating in the school's catchment area within 5 years after the year in which the application is being considered (pursuant to 85(4)(a)), the committee must have regard to the matters in subclause 86(2). That is:

- whether there is likely to be a reduction in enrolments at any of the other schools or State schools within the 5 year period because of the Government-funded operation of the school;
- whether there is likely to be a reduction in curriculum offerings at any of the other schools or State schools within the 5 year period because of the Government-funded operation of the school
- whether there is likely to be a closure of any of the other schools or State schools within the 5 year period because of the Government-funded operation of the school.

Clause 87 provides that where it reasonably requires further information or a document to make a recommendation in relation to eligibility for Government funding, the committee is empowered to require the applicant to supply to the committee that further information or document. This requirement is by notice of the committee. The time in which the applicant must comply with this request must be stated in the notice and is a minimum reasonable time of 30 days. Subclause 87(2) states that where they fail to comply with the request for further information within the stated time, the applicant is taken to have withdrawn their application.

The committee must have regard to the remaining time for the Minister to make the decision when giving a notice. Pursuant to clause 90, the Minister has 9 months to make a decision from receipt of the application by the board, but subject to clause 91, under which the Minister may agree with the applicant on an extended period to make the decision.

PART 5—DECISION BY MINISTER

Clause 88 places obligations on the Minister where the Minister receives a recommendation relating to a school's eligibility for government funding. These obligations are as follows:

- the Minister must make a decision as to whether the applicant is eligible for Government funding for the school. In making the decision, the Minister must have regard to the recommendation

and any reasons for recommendation, and the eligibility for Government funding criteria. It should be noted however that the Minister is not bound by the recommendation;

- if the Minister's decision is to grant the application about Government funding, the Minister must as soon as practicable give the applicant and the board notice of the decision;
- if the Minister's decision is to refuse the application about Government funding, the Minister must as soon as practicable give the applicant an information notice of the decision and give the board notice.

Clause 89 provides that where further information or documents are reasonably required in order to make a decision on eligibility for Government funding, the Minister is empowered to require the applicant to supply the Minister with that further information or document. This requirement is by notice. The time in which the applicant must comply with this request must be stated in the notice and is a minimum reasonable time of 30 days. Subclause 89(2) states that where they fail to comply with the request for further information within the stated time, the applicant is taken to have withdrawn their application for Government funding.

The Minister must have regard to the remaining time to make the decision when giving notice.

Clause 90 provides that where the Minister fails to decide an application for eligibility for Government funding within 9 months from when the application was made, the failure is taken to be a decision of the Minister to refuse to grant the application. The 9 month period may be extended with the applicant's agreement pursuant to clause 91.

Clause 91 enables an extension of the ordinary nine month period in which a decision on eligibility for Government funding is to be made. Such an extension can occur where the applicant and the Minister, anytime before the end of that period, agree in writing to a day referred to an agreed extended day by which the decision is to be made. The Minister must notify the board as soon as is practicable of the agreed extended day. The effect of this notice is that the period in which the board must decide whether to provisionally accredit the school is also extended to the agreed extended day. Subclause 4 provides that where the Minister fails to make a decision on the application by the agreed extended day, the Minister is taken to have refused to grant the application.

PART 6—WITHDRAWAL OF ELIGIBILITY FOR GOVERNMENT FUNDING

Division 1—Preliminary

Clause 92 provides that the provisions concerning withdrawal of eligibility for Government funding apply to schools whose governing bodies are eligible for Government funding.

Division 2—Withdrawal after show cause process

Clause 93 sets out the following as grounds for the withdrawal of eligibility for Government funding:

- the school is being operated for profit;
- the school's governing body does not consent to the entry by an auditor to the school's premises under clause 150;
- the school's governing body has not complied with the provisions of clause 162, the provision of survey data to the board in the manner prescribed by subclause 162(2).

The term 'operated for profit' is to be interpreted with reference to clause 7 (School "not operated for profit").

Clause 94 provides that where the board believes a ground exists (under clause 93) for withdrawal of the eligibility for Government funding, the board is required to give the governing body a show cause notice stating the following:

- the recommendation the board proposes to make under this Division;
- the grounds for the proposed recommendation;
- an outline of facts and circumstances forming the basis for the grounds;
- an invitation to the governing body to show, within a minimum stated period of 30 days after the show cause notice is given to the governing body, why the proposed recommendation should not be made .

Clause 95 enables the governing body to make written representations about the show cause notice to the board within the show cause period stated in the notice. Subclause 95(2) obliges the board to consider all such written representations from the governing body.

Clause 96 provides that where, after considering the written representations of the governing body in response to the show cause notice, the board no longer believes the grounds exist for the withdrawal of the eligibility for Government funding, the board:

- must take no further action about the show cause notice; and
- must as soon as is practicable after forming the belief, give notice to the governing body that no further action is to be taken in relation to the show cause notice.

Clause 97 provides for the board to make recommendations to the Minister if the board continues to believe that grounds exist to withdraw eligibility for Government funding, after considering the written representations of the governing body in response to the show cause notice (if any). If the board believes grounds exist, the board must:

- must make a recommendation that the eligibility for Government funding be withdrawn, (including the reasons for the recommendation); and
- must as soon as is practicable after making the recommendation, give the recommendation to the Minister.

Clause 98 provides that where the Minister receives a recommendation from the board that the eligibility for Government funding be withdrawn, the Minister must decide whether the eligibility for Government funding should be withdrawn.

In arriving at the decision, the Minister, although not bound by the recommendation by the board, must have regard to that recommendation and the reasons given for it.

Where the Minister decides that the eligibility for Government funding be withdrawn, the Minister is required as soon as is practicable to do the following:

- give the governing body an information notice about the decision; and
- give the board notice of the decision.

The decision to withdraw eligibility for funding does not take effect until:

- the last day for the applicant to apply, under Chapter 4, to have the decision reviewed; or
- if the applicant has applied to have the decision reviewed under Chapter 4, the day the review is finalised.

Where the Minister decides that the eligibility for Government funding not be withdrawn, the Minister is required as soon as is practicable to give both the board and the governing body, notice of the decision.

Division 3—Automatic withdrawal

Clause 99 provides that if the provisional accreditation or accreditation of a school is cancelled, the eligibility for Government funding is taken to be withdrawn when the cancellation takes effect under this Act.

Clause 100 provides that where a school has applied for accreditation but the board decides not to provisionally accredit or accredit that school, the eligibility for Government funding is taken to be withdrawn when the decision takes effect under this Act.

CHAPTER 4—REVIEWS OF DECISIONS

Clause 101 provides a right of review to the Minister of a decision by a person who:

- is given, or who is entitled to be given an information notice for a decision; and
- who is dissatisfied with the decision.

The term "information notice" is defined by the Dictionary in Schedule 3 (located at the end of the Act) and is to be provided under the following clauses of this Act:

- clause 19—Decision to refuse to provisionally accredit school;
- clause 21—Failure to decide to provisionally accredit a school;
- clause 22—Further time to make a decision;
- clause 28—Steps to be taken after application decided;

- clause 29—Failure to decide application during school's provisional accreditation period;
- clause 30—Further consideration of application;
- clause 45—Failure to decide application;
- clause 46—Decision about application;
- clause 52—Decision of board;
- clause 53—Failure to decide application;
- clause 55—Decision of Minister;
- clause 67—Cancellation;
- clause 88—Decision on application;
- clause 90—Failure to decide application;
- clause 98—Decision of Minister.

Clause 102 provides the time frame within which the application for review must be made and the form in which the application must be made. Ordinarily, a person must apply for review within 28 days after an information notice is received. If for some reason, a person who is entitled to an information notice has not received the notice, that person can apply for review within 28 days of becoming aware of the decision. The Minister can extend the time for applying for review. An application for review must be in writing, and must state fully the grounds of the application.

Clause 103 sets out the procedures to be observed when an applicant applies for a board decision to be reviewed by the Minister. When an applicant applies to the Minister for a review of a decision of the board, the applicant is required to serve a copy of the application on the board.

In reviewing the decision:

- The Minister must consider the material before the board that led to the original decision, the reasons for the decision, and any other relevant material the Minister allows.
- The Minister must give the applicant and board a reasonable opportunity to make written representations to the Minister.
- If material allowed under clause 103(3)(c) affects the Minister's decision, the Minister must give the applicant and board a reasonable opportunity to make written representations.

- After reviewing the original decision, the Minister must make a review decision to either refer the matter to which the decision relates back to the board for further consideration, subject to any directions decided by the Minister, or decline to refer the matter to which the decision relates back to the board for further consideration. If the Minister in reviewing a decision refers the matter back to the board with directions, the board must comply with those directions.
- As soon as practicable, the Minister must give the applicant notice of the review decision and any directions made to the board.

The board must acknowledge in its annual report under the *Financial Administration and Audit Act 1977*, any directions issued by the Minister under this clause. The phrase: "details of all directions" is not intended to mean that in all cases the full content of the direction must be published. The details to be published must at least include the application in relation to which the direction was issued.

Clause 104 sets out the procedures to be observed when an applicant applies for a decision of the Minister to be reviewed by the Minister. In reviewing a decision made by the Minister, the Minister must consider the material that led to the original decision, the reasons for the decision and any other relevant material the Minister allows. The Minister must give the applicant a reasonable opportunity to make written representations. If material allowed under clause 104(2)(c) affects the Minister's decision, The Minister must give the applicant a reasonable opportunity to make written representations to the Minister on that allowed material. After reviewing the original decision the Minister must make a decision to confirm the original decision or amend the original decision or substitute another decision for the original decision. As soon as practicable after making the review decision, the Minister must give the applicant notice of the review decision. If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.

CHAPTER 5—ADMINISTRATION

PART 1—NON-STATE SCHOOLS ACCREDITATION BOARD

Division 1- Establishment and functions

Clause 105 establishes the Non-State Schools Accreditation Board. The term "board" is defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 106 provides an overview of the role of the Non-State Schools Accreditation Board by specifying the board's functions under this Act. The key functions of the board are to:

- assess applications for accreditation;
- accredit schools that comply with the accreditation criteria;
- maintain a publicly accessible register of provisionally accredited and accredited schools;
- monitor whether accredited schools are continuing to comply with the accreditation criteria; and
- examine, and advise the Minister about the operation of the accreditation scheme under the Act.

Some of these functions are discussed in these Explanatory Notes under the heading entitled: "How the Policy Objectives Will be Achieved".

Division 2—Membership

Clause 107 provides that the board consist of seven members appointed by the Governor in Council. The members are comprised of:

- a chairperson to be nominated by the Minister;
- three members nominated by the Minister after consulting with Association of Independent Schools of Queensland (AISQ) and Queensland Catholic Education Commission (QCEC).
- one nominee of the Director-General of Education;

- one member who is nominated by the AISQ; and
- one member who is nominated by the QCEC.

The membership of the board is designed to ensure that there is representation from the main providers of school education in Queensland, that is, Education Queensland, Catholic schools and Independent schools. The three nominees of the Minister are to provide independent community input into the process of accrediting and monitoring the accreditation of schools.

Subclause 107(2) sets out restrictions on who may be appointed as the Minister's consultation nominees. Subclause 107(2)(a) prevents the Minister from nominating as a Minister's consultation nominee, a person who is:

- an employee of the Department;
- working full time in an accredited school;
- a director or member of the governing body of an accredited school;
- a member of an entity representing the interests of the governing body of the schools.

In addition, subclause 107(2)(b) requires that a Minister's consultation nominee possess qualifications, experience or standing that the Minister considers appropriate to membership of the board.

Therefore, these three nominees are chosen for their expertise and standing in the education community and can not be employees or currently active within the governance structures of either the Department of Education, or the non-State schools sector. The purpose of these restrictions is to ensure that the Minister's consultation nominees are not employed by, or act as representatives of, the main providers of school education in Queensland. In this way the board should reflect the educational beliefs and interest of the whole educational community.

Clause 108 sets out requirements for the nomination of members to the board by Association of Independent Schools of Queensland (AISQ) and Queensland Catholic Education Commission (QCEC). Subclause 108(2) requires that the Minister give the entity who is to make the nomination a notice stating a reasonable time within which it may nominate the person for membership. Subclause 108(3) empowers the Minister to nominate a person for membership where a nomination is not made within the time

stated in the notice. A nomination in this circumstance is deemed to have been made by the entity.

Clause 109 specifies that the maximum term of office for a member of the board is four years. There is nothing to prevent the appointment of a member for a period of less than four years, which means membership terms can be staggered. In addition, there is no restriction on the number of terms a person can serve as a member of the board.

Clause 110 requires that the board appoint a deputy chairperson for a term it decides though the term cannot exceed the member's current term. This clause describes how the office of deputy chairman becomes vacant but provides that a person resigning the office of deputy chairman may continue as a member of the board. Subclause 110(5) provides for the deputy chairman to act as chairperson in the following circumstances:

- when the office of chairperson is vacant;
- during all periods when the chairperson is absent from duty
- during all periods when the chairperson can not perform the functions of the office.

Clause 111 provides that a person is ineligible to be appointed, or to continue, as a member of the board if convicted of an indictable offence in any jurisdiction. The term 'convicted' is defined in the Dictionary in Schedule 3 (located at the end of the Act). It should be noted that this clause operates in addition to section 25 of the *Acts Interpretation Act 1954* which specifies that the power to appoint a person to an office includes the power to remove the person from office at any time. This clause is subject to clause 112 (discussed below).

Clause 112 preserves the Minister's discretion in allowing a person convicted of an indictable offence to become or continue as a board member. This clause provides for the procedure to be followed by the Minister and the board if that discretion is exercised.

Clause 113 sets out the circumstances in which a member is taken to have vacated office, namely, when a member resigns, ceases to be eligible for membership under clause 111 (discussed above), or is absent without the board's permission from 3 consecutive board meetings (where a quorum is present) of which due notice has been given. A Minister's consultation nominee is taken to have vacated office if that person no longer meets the requirements for membership specified under subclause 107(2). For example, a consultation nominee is taken to have vacated office, if the person becomes an employee of Education Queensland.

Clause 114 specifies when a notice of resignation tendered to the Minister by a member, chairperson or deputy chairperson is to take effect

Clause 115 stipulates the entitlement of members to be paid fees and allowances decided by the Governor-in-Council. It is implicit that members may waive their entitlement under this clause.

Division 3—Board business

Clause 116 enables the board to administratively determine procedural matters associated with the conduct of its business, subject to the requirements of this division.

Clause 117 requires the chairperson to determine meeting times and places and to convene a meeting when requested to do so, in writing, by the Minister or by a quorum of members. The board must meet a minimum of 4 times a year and as often as required to perform its functions.

Clause 118 specifies how many members constitute a quorum for the board. Having regard to the generally understood meaning of the term, a 'quorum' is the number of members required to be present at a board meeting in order for the board to transact its business legally. The quorum for the board is four members.

Clause 119 specifies who is to preside at meetings of the board, namely the chairperson; or in the absence of the chairperson, the deputy chairperson; or in the absence of both the chairperson and the deputy chairperson, a member chosen by a majority of the members present.

Clause 120 provides for attendance by members at board meetings by proxy. Proxyholders holding proxy for the chairperson or deputy chairperson are not entitled to preside merely for that reason but may preside subject to clause 119(3).

Clause 121 sets out various procedural requirements for the conduct of board meetings. Subclauses 121(1)-(3) specify voting procedures and provide that questions are to be determined by a majority of votes; that each member present has a deliberative vote, and that in the event of a tied vote, the presiding member also has a casting vote; a member who abstains from voting is taken to have voted for the negative. Subclauses 121(4)-(6) provide for board meetings to be held by distance communication and for board decisions to be made by flying minutes.

Clause 122 requires that the board maintains records of its meetings, in the form of minutes.

Clause 123 places an obligation on board members to disclose any personal or pecuniary interest (for example, in matters relating to themselves, their families or business associates) where such interests relate directly or indirectly to matters under consideration by the board and which could conflict with the proper performance of the member's duties when considering the matter. When a disclosure is made under this clause, the member must absent himself or herself from deliberations and decisions about the matter, unless otherwise directed by the board. The disclosure must be minuted. The absence of members under this clause does not compromise the quorum of the board. Note that a member with a conflict of interest who cannot attend the meeting due to the operation of clause 123(3) may send a proxy under clause 120.

Division 4—Board committees

Clause 124 empowers the board to establish committees to assist in the performance of its functions and to decide terms of reference and any other matters about a committee that are not provided for under this Act. Any committee created may include as a member, a person who is not a member of the board. The Non-State Schools Eligibility for Government Funding Committee (the Funding Committee) established under clause 129 of this Act, is a committee of the board. The board will not determine the terms of reference of the Funding Committee, as these are stated in the Act (at clause 130), but will determine the terms of reference for all other committees.

Division 5—Administrative support of board and its committees

Clause 125 requires that the Director-General of the Department of Education ensures that the board and its committees have all the administrative support that is required to perform their functions in an efficient and effective manner. This administrative support is to be provided through the Office of Non-State Schooling section of the Department of Education.

Division 6—Other provisions about the Board

Clause 126 provides that the board is a statutory body for the purpose of the *Financial Administration and Audit Act 1977* ('the FA&A Act'). The effect of clause 126 is to apply the provisions of the FA&A Act, which deals with the financial administration and audit of statutory bodies, to the board. For example, under FA&A Act the board will be required to prepare annual financial statements and an annual report.

Clause 127 provides that the board is a statutory body for the purpose of the *Statutory Bodies Financial Arrangements Act 1982* ('the SBFA Act'). The effect of clause 127 is to apply the provisions of the SBFA Act to the board. For example, the SBFA Act gives the board power to operate a deposit and withdrawal account with a financial institution to the extent necessary or convenient for its day-to-day operations. In order to operate such an account with an overdraft facility, the SBFA Act requires the board to obtain the Treasurer's approval to do so. Subclause 127(2) provides that the board's powers under this Act are limited to the extent specified in Part 2B of the SBFA Act.

Clause 128 empowers the board to issue, replace or vary guidelines that are statutory instruments under the *Statutory Instruments Act 1992*. The board can make guidelines about the methodology to be followed in decisions about whether a school is, or will, comply with the accreditation criteria or should be eligible for State Government funding when considered against the eligibility for Government funding criteria. Methodology is intended to include; the units of measurement to be used, the qualitative and quantitative methods of analysis, data collection procedures and forms of acceptable evidentiary proof. For example, in relation to the demonstration of financial viability, the board will be empowered to list the types of document, bank statements, auditors or accountant statements, which can be used to demonstrate financial viability. In relation to units of measurement, for example, the board will be empowered to specify that catchment areas are to be measured in "statistical local area " rather than by postal codes or some other form of measurement. The board may also issue guidelines about administrative matters relevant to applications under the Bill. For example, these guidelines may concern such matters as; calls for applications, notices of acknowledgement of applications, place of receipt of applications and methods of lodgement of applications.

PART 2—NON-STATE SCHOOLS ELIGIBILITY FOR GOVERNMENT FUNDING COMMITTEE

Clause 129 establishes the Non-State Schools Eligibility for Government Funding Committee ("the committee"). This is a sub-committee of the board. The term 'committee' is defined in the Dictionary in Schedule 3 (located at the end of the Act). The committee is to assist the Minister in determining the eligibility of non-State schools for the receipt of State funds. The committee is responsible for making a recommendation about eligibility for Government funding. That recommendation is then communicated to the Minister via the board.

Clause 130 provides an overview of the committee's role by specifying the committee's functions under this Act. The key functions are:

- to assess or reassess the eligibility of the school's governing body for Government funding for the school; and
- to make recommendations for consideration of the Minister, about the eligibility of a school's governing body for Government funding for the school.

The term "Government funding" is defined in the Dictionary in Schedule 3 (located at the end of the Act).

Clause 131 requires that the committee consist of six members appointed by the board. The six committee members are comprised of:

- a chairperson to be nominated by the Minister;
- a member nominated by the Minister (the 'Minister's consultation committee member'), nominated after consultation with the Association of Independent Schools of Queensland (AISQ) and the Queensland Catholic Education Commission (QCEC).
- one nominee of the Director-General of the Department of Education;
- one member who is nominated by the AISQ;
- one member who is nominated by the QCEC.
- one nominee of the board with expertise in demography and town-planning matters

A "Minister's consultation nominee" must be agreed to by the Director-General of the Department of Education, the AISQ and the QCEC. A Minister's consultation nominee must possess qualifications, experience or standing that the Minister considers appropriate to membership of the board, however the following people are excluded from being a 'Minister's consultation committee nominee':

- an employee of the Department;
- a person working full-time in an accredited school;
- a director or member of the governing body of an accredited school;
- a member of an entity representing the interests of the governing body of the schools.

The nominee with expertise in demography and town-planning matters is to be appointed following agreement with the AISQ and QCEC.

Clause 132 provides that the chairperson of the accreditation board may attend and participate in any of the committee's deliberations, but holds no voting rights at any meeting of the committee. The committee must give the board's chairperson notice of every meeting of the committee.

Clause 133 prescribes the process of nomination to the committee of the nominees to the Association of Independent Schools of Queensland (AISQ) and the Queensland Catholic Education Commission (QCEC). The board is required to give the AISQ and QCEC a notice allowing a reasonable time within which the entities may nominate a person for the position on the committee. However, should the entity fail to make a nomination within the time stated in the notice, the board is empowered to nominate a person for membership. A nomination in this circumstance is deemed to have been made by the entity.

Clause 134 stipulates the entitlement of committee members to be paid fees and allowances decided by the Governor-in-Council. It is implicit that committee members may waive their entitlement under this clause.

Clause 135 places an obligation on committee members to disclose any personal or pecuniary interest (for example, in matters relating to themselves, their families or business associates) where such interests relate directly or indirectly to matters under consideration by the committee and which could conflict with the proper performance of the member's duties when considering the matter. When a disclosure is made under this clause, the member must absent himself or herself from

deliberations, unless otherwise directed by the board, and decisions about the matter and the disclosure must be minuted.

Similarly, if there is another committee member who is also required to disclose a personal or pecuniary interest, this other committee member is obliged to absent himself or herself when the committee is deliberating about the matter relating to the first committee member, unless otherwise directed by the board. Any such disclosure must be minuted.

The absence of members under this clause does not compromise the quorum of the committee.

PART 3 –AUTHORISED PERSONS

Division 1—Preliminary

Clause 136 provides that authorised persons under Chapter 5, Part 3 of this Act are carrying on a regulated business for the purposes of the Commission for Children and Young People Act 2000, Part 6. This means that assessors and auditors are required to apply for and obtain a suitability notice from the Commissioner for Children and Young People pursuant to Part 6 of the Commission for Children and Young People Act 2000. The suitability notice reflects suitability for child related employment.

Division 2—Functions and powers of authorised persons

Clause 137 provides that an assessor's function is to ascertain if a provisionally accredited or accredited school is complying with the accreditation criteria. An assessor is an authorised person under this Act. The terms 'assessor' and 'authorised person' are defined in the Dictionary in Schedule 3 (located at the end of the Act) by reference to clause 140.

Clause 138 provides that an auditor's function is to verify school survey data relating to a provisionally accredited or accredited school that has been provided to the board pursuant to obligations under clause 162. An assessor is an authorised person under this Act. The term 'auditor' 'is defined in the Dictionary in Schedule 3 (located at the end of the Act) by reference to clause 140.

Clause 139 formally gives the assessors and auditors powers attributed to them in this Act.

Division 3—Appointment of authorised persons and other matters

Clause 140 specifies the criteria by which people are appointed to the position of assessor or auditor by the board. Subclause 140(5) specifically allows a person to be appointed as both assessor an auditor and discharge duties for both. An assessor or auditor may be appointed only if the person has the necessary expertise or experience to be an assessor or auditor and the person is suitable to perform the duties of an assessor or auditor.

Clause 141 provides that in considering the suitability of a person to perform the function of either an assessor or an auditor, the board must decide that a person is unsuitable if the person does not have a current positive notice for suitability for child-related employment issued under the *Commission for Children and Young People Act 2000*. Also, the board must have regard to, and make enquiries about the person's character and standing. The board may also have regard to other matters in considering the suitability of a person to perform duties as an assessor or auditor.

Clause 142 provides that assessors and auditors hold their office subject to the conditions stated in the instrument of appointment. One condition will be that authorised persons notify the board within 7 days of making an application for a suitability notice for child-related employment issued under the *Commission for Children and Young People Act 2000*. The purpose of this provision is to keep the board informed of any changes to the criminal histories of authorised persons, and when the lapsing or imminent lapsing of validity of suitability notices authorised persons. Also the authorised person ceases to hold office at the end of the term of appointment specified in the instrument of appointment, or of the authorised person resigns by signed notice.

A person in the position of assessor or auditor can resign by supplying a signed notice of resignation to the board. However a person in the position of assessor or auditor may not resign from their office as assessor or auditor if a condition of the person's employment to another office requires the person to hold the office of assessor or auditor.

Clause 143 requires the board to issue each assessor and inspector with an identity card, specifying the attributes of what is required on the identity card.

A single identity card may be issued to an authorised person for the purposes of this Act and other Acts.

Clause 144 makes it an offence for a person who ceases to be an authorised person to fail to return his or her identity card to the board in the absence of a reasonable excuse.

Clause 145 provides that before exercising a power under the Act, an assessor or auditor must either produce an identity card for a person's inspection or have the card clearly and visibly displayed.

Division 4—Powers of assessors

Clause 146 provides that the powers set out in Division 4 relate to the preparation of reports to the board under clauses 31, 38, 62 or 188.

Clause 147 empowers an assessor to enter a school's premises after complying with clause 148 (discussed below)

Clause 148 requires an assessor, seeking to enter the school's premises, to give the governing body a notice setting out the purpose of the entry and the day it is proposed that the auditor enter the school. The nominated day of entry must be a minimum of 14 days from the issue of the notice to the school's governing body. The governing body and the assessor my however agree upon a day that is earlier than the 14 day period. In deciding the period of notice to be given before entering the school's premises, the assessor must have regard to the circumstances of the proposed entry.

Clause 149 provides that where an assessor has entered a school's premises pursuant to clause 147 and 148 (discussed above), he or she is empowered to:

- inspect any part of the premises that are usually used for the teaching of students; or
- take an extract, or copy, of a document at the premises; or
- require the school's governing body to give him or her information, or produce a document to him/her, to assist in the preparation of the report.

Division 5—Powers of auditors

Clause 150 empowers an auditor to enter a school's premises after complying with clause 151 (discussed below)

Clause 151 requires an auditor seeking to enter the school's premises to give the governing body a notice setting out the purpose of the entry and the day it is proposed to enter the school. The nominated time of entry must be a minimum of one day from the issue of the notice to the school's governing body. However, the governing body and auditor may agree on a time that is earlier than the one day period. In deciding the period of notice to be given before entering the school's premises, the assessor must have regard to the circumstances of the proposed entry.

Clause 152 provides that where an auditor has entered a school's premises pursuant to clauses 150 and 151 (discussed above), he or she is empowered to:

- physically verify that certain students enrolled for classroom education at the school are attending the school;
- physically verify that certain students enrolled for distance education at the school are undertaking the education;
- take an extract, or copy, of a document at the premises;
- require the school's governing body to give him/her information, or produce a document to him/her.

Division 6—General enforcement matters

Clause 153 makes it an offence for a person to impersonate an assessor or auditor.

PART 4—LEGAL PROCEEDINGS

Division 1—Evidence

Clause 154 clarifies that Chapter 5, Part 4, Division 1 applies to a proceeding under this Act.

Clause 155 removes any necessity to prove the appointment of the Minister for Education, board members, committee members and

authorised persons. The intention of this clause is to save time in potential legal proceedings by not having to prove these matters.

Clause 156 provides that a signature purporting to be that of the Minister for Education, the chairperson of the board, the chairperson of the committee, a member of the board or of a committee or authorised person are taken to be evidence of the signature they purport to be. The intention of this clause is to save time in potential legal proceedings by not having to prove these matters.

Clause 157 specifies those documents and the contents of the documents that are considered to be evidence. The intention of these clauses is to facilitate and save time in court proceedings by not having to prove certain things.

Division 2—Proceedings

Clause 158 provides that in relation to offences created under this Act, those offences are to be dealt with summarily under The Justices Act 1886. Subclause 158(2) specifies the timeframe within which proceedings for the summary offences against this Act must start. Subclause 158(3) sets out that an exception to the method of proceedings under the Justices Act 1886 is an offence against clause 10. A person is to be prosecuted for the offence of operating a school without accreditation or provisional accreditation only on a complaint by the Minister.

Clause 159 provides that, in any proceeding for an offence against this Act relating to false or misleading information or documents it is sufficient for the charge to state that the information or document was 'false or misleading'.

PART 5—REGISTER

Clause 160 requires the board to maintain a current register about accredited schools, that contains at least the information specified in subclause 160(3). There is nothing to prevent the board from recording other information about accredited schools. With the exception of the

information specified in subclause 160(3), the manner of keeping the register is to be determined by the board.

Clause 161 requires the board to allow the public to inspect the register free of charge and, upon payment of the prescribed fee, to obtain a copy of the register or part of it. This is consistent with the status of the register as a public document.

CHAPTER 6—MISCELLANEOUS

Clause 162 requires that the governing body of either a provisionally accredited school in operation, or an accredited school, supply to the board survey data relating to the day prescribed under a regulation. The survey data must be supplied in the form prescribed by the board, within 7 days after the prescribed day. The term 'school survey data' is defined in the Dictionary in Schedule 3 (located at the end of the Act). This data will include information about the number and attributes of students as well as other information about the operation of the school.

The purpose of this clause is to require schools to give information that is used to calculate Government payments to the school and any other information reasonably required by the board to perform its functions.

Clause 163 requires the governing body of either a provisionally accredited school in operation, or an accredited school, to notify the board of the happening of the following events within 14 days of those events occurring:

- the closure of the school;
- the school stops offering a year of schooling for which it is provisionally accredited or accredited;
- the governing body is affected by control action under the Corporations Law (subclause 163(3) defines what is meant by the term "affected by control action under the Corporations Law");
- a Government-funded school begins to be operated for profit;
- any other change in the governing body's or school's circumstances prescribed under a regulation.

Subclause 163(2) makes it an offence to fail to comply with these requirements.

Clause 164 requires disclosure to the board of an application for a suitability notice issued under the *Commission for Children and Young People Act 2000* in two circumstances:

1. where an application for provisional accreditation or accreditation has yet to be decided and a director of the school's governing body applies for a suitability notice
2. where an application for a change in the school's governing body has yet to be decided and a director of the school's governing body applies for a suitability notice.

In both these circumstances, notification must be made within 7 days of making application for the suitability notice.

Clause 165 creates offences relating to non-disclosure of criminal history. The circumstances in which the offences occur are where:

- a person with a criminal history who becomes a director of the governing body of a provisionally accredited or accredited school is required to give the board a notice stating the name, address and date of birth of the person and details of any indictable offence included in the criminal history, within 7 days of that person becoming a an executive officer of the governing body
- a director of a provisionally accredited or accredited school is convicted of an indictable offence, the executive officer must within 7 days of the conviction give the board a notice stating the details of the indictable offence
- a director of the school's governing body is convicted of an indictable offence during the period between an application to the board for the provisional accreditation or accreditation of a school and the decision on that application. In this circumstance, the executive officer must within 7 days of the conviction, give the board a notice stating details of the indictable offence.
- a director of the school's governing body is convicted of an indictable offence during the period between an application to the board for a change in the governing body of a provisionally accredited or accredited school and when the application is decided. In this circumstance, the executive officer must within 7

days of the conviction, give the board a notice stating details of the indictable offence.

Clause 166 provides that the persons specified in subclause 166(3) who have a role in the administration of this Act are not civilly liable for an act or omission, made honestly and without negligence under this Act. Instead, such liability attaches to the board. The protected officials are the Minister, a member of the board or a committee of the board, and an authorised person (that is assessors and auditors).

Clause 167 enables the board to publish information that identifies, or is likely to identify a school if the board honestly believes on reasonable grounds that that school is being operated without accreditation or provisional accreditation. The board is not liable civilly or criminally or under an administrative process for giving this information. Subclause 167(3) specifically provides that in a proceeding for defamation the board has a defence of absolute privilege for publishing the information. This subclause also provides that if the board would otherwise be required to maintain confidentiality about the published information under an Act, oath, rule of law or practice, the board does not contravene the Act, oath, and rule of law or practice by publishing the information.

Clause 168 makes it an offence for a person to give the board information, or a document containing information, that the person knows is false or misleading. This would cover the situation where, for example, a person makes a false complaint to the board about a person contravening this Act but also if an applicant for accreditation knowingly gives misleading information. Subclause 168(3) specifies the circumstances under which a person does not commit an offence under subclause 168(2).

Clause 169 makes it an offence for persons specified under subclause 169(1) to disclose protected information obtained in the course of administering this Act. Protected information is information that would be likely to adversely affect the commercial interest of a person, is about a child or identifies a child, or is about a person's criminal history. However the clause allows disclosure under the clearly defined circumstances set out in subclause 169(3).

In this section, "person" refers to a corporation as well as an individual, and should be read in light of section 32D of the *Acts Interpretation Act 1954*.

Clause 170 makes it an offence to hold out a school as being accredited or provisionally accredited if the school is not so accredited. The objective of this clause is to protect members of the community by ensuring that an

institution can not claim to be an accredited or provisionally accredited school without meeting the standards specified in the accreditation criteria contained in this Act.

Clause 171 empowers the Minister to vest his or her powers under this Act to another person possessing the qualifications, experience or standing appropriate to exercise the power. This power might be exercised when the Minister is indisposed.

Clause 172 provides for the board to approve forms used under this Act.

Clause 173 provides for the Governor-in-Council to make regulations to give effect to this Act.

CHAPTER 7—TRANSITIONAL PROVISIONS

PART 1—PRELIMINARY

Clause 174 provides definitions for 'commencement' and 'General Provisions Act'.

PART 2—NON-STATE SCHOOLS UNDER GENERAL PROVISIONS ACT

Clause 175 provides that where an operating school is classified as a non-State school under the General Provisions Act, the school is taken to be accredited under this Act. The school will be accredited for the same type of education and same attributes of accreditation, as mentioned in clause 16(3) that correspond to the education the school was allowed to offer immediately prior to commencement of this Act. Any conditions applying to the school mentioned in section 2A (4) of the General Provisions Act will also become attributes of accreditation upon the school's accreditation.

Clause 176 provides that where a non-operating school immediately prior to commencement of this Act was a non-State school under the

General Provisions Act, the school is taken to be provisionally accredited under this Act. The school will be provisionally accredited for the same type of education and same attributes of provisional accreditation, as mentioned in clause 16(3)that correspond to the education the school was allowed to offer immediately prior to commencement of this Act. Any conditions applying to the school mentioned in section 2A (4) of the General Provisions Act will also become attributes of provisional accreditation upon the school's provisional accreditation.

Clause 177 provides that where an operating school has made an application for non-State school status under section 2(2) of the General Provisions Act, and the application has not been decided before commencement of this Act, the application is to continue to be decided by the Minister under section 2(2) of the General Provisions Act. If the Minister decides to grant the application, the school is taken to be accredited in the same manner as specified in clause 175.

Clause 178 provides that where an operating school has been refused an application for non-State school status under section 2(2) of the General Provisions Act, and the school has made a submission in relation to the decision to refuse the application under guideline 2.4 of the guidelines mentioned in section 2(2) of the General Provisions Act prior to commencement of this Act, consideration of the submission by the Minister is to continue under the General Provisions Act. If the Minister decides to grant the application, the school is taken to be accredited in the same manner as specified in clause 175.

Clause 179 provides that where an non-operating school has made application for non-State school status under section 2(2) of the General Provisions Act, and the application has not been decided before the commencement of this Act, the application is to continue to be decided by the Minister under section 2(2) of the General Provisions Act. If the Minister decides to grant the application, the school is taken to be provisionally accredited in the same manner as specified in clause 176.

Clause 180 provides that where a non-operating school's application for non-State school status has been refused under section 2(2) of the General Provisions Act, and the school has made a submission in relation to the decision to refuse the application under guideline 2.4 of the guidelines mentioned in section 2(2) of the General Provisions Act prior to commencement of this Act, consideration of the submission by the Minister is to continue under the General Provisions Act. If the Minister decides to grant the application, the school is taken to be provisionally accredited in the same manner as specified in clause 176.

Clause 181 provides that, for a school that is accredited or provisionally accredited under the transitional provisions of this Act, the governing body of the school will not necessarily have to be a corporation for a period of two years. This clause is intended to give such schools time to arrange their governance structures to comply with a requirement of this Act, that is, that the governing body of a school be incorporated. Incorporation of the governing body had not previously been a requirement to gain approval to operate a non-State school in Queensland. This clause is not intended to allow governing bodies of non-State schools to become a incorporation, cease to be an incorporation, and then become again an incorporation within the two year period.

PART 3 –SCHOOLS IN RECEIPT OF SUBSIDY UNDER GENERAL PROVISIONS ACT

Clause 182 provides that where a school is classified as a school in receipt of subsidy, or provisionally a school in receipt of subsidy, under the General Provisions Act, the school's governing body is taken to be eligible for Government funding under this Act. This applies to the same aspects of the operation of the school as the school was classified as a school in receipt of subsidy or provisionally a school in receipt of subsidy under the General Provisions Act. Additionally, the school's governing body will be eligible for Government funding for all year levels within a sector of schooling in which the school, at the time of commencement, was classified as a school in receipt of subsidy, or provisionally a school in receipt of subsidy, for at least one year. A school operated for profit cannot be eligible for Government funding under this Act. Therefore, this clause provides for a 6 month period in which a school's governing body can reconstitute itself on a not for profit basis, if the governing body is not so constituted. Within these 6 months, the school will still be able to be classified as eligible for Government funding.

Clause 183 provides that where a school has made an application for categorisation as a school in receipt of subsidy under section 141 of the General Provisions Act and the application has not been decided before commencement of this Act, the application is to continue to be decide by the Minister under the General Provisions Act. If the Minister decides to grant the application, the school is taken to be eligible for Government funding in the same manner as specified in clause 182.

PART 4—SCHOOLS ALLOWED TO OFFER YEARS 1 TO 3 OF SCHOOLING, BUT NOT PRESCHOOL YEAR OF SCHOOLING

Clause 184 specifies particular schools to which the following clauses will apply. These are schools which are accredited under the transitional provisions for at least the primary years of schooling of 1 to 3, are eligible for Government funding for years 1 to 3, are not at the time of commencement allowed to offer the preschool year, and apply before the end of 2009 to be able to offer the preschool year.

Clause 185 provides that the applications mentioned in clause 184 are not sent to the committee or Minister to be considered for eligibility for Government funding, and that the board has 6 months to decide the application.

Clause 186 provides that if an application mentioned in clause 184 is granted, the school's governing body must notify the board within 14 days of the first day that the education of preschool students takes place at the school, that the school has started to educate preschool students.

Clause 187 provides for the board to conduct an assessment of the preschool year of school to decide whether the accreditation criteria are being complied with. The first assessment must be conducted in the first year of operation of the preschool year, and a maximum of 2 assessments can be conducted by the board under this clause.

Clause 188 provides for an assessor to visit the school to produce a written report as to whether the school is complying with the accreditation criteria.

PART 5—SCHOOLS THAT ARE NON-STATE SCHOOLS UNDER GENERAL PROVISIONS ACT

Clause 189 refers to schools that have not been granted, and have not applied for, non-State school status under the General Provisions Act. This clause is designed to refer to schools that have been operating outside of the regulatory framework which operated in Queensland prior to the commencement of this Act. Such schools will be deemed not to be

operating illegally for six months, or if an application for accreditation is lodged with the board, until the application is finally determined, including during the time for any reviews of the decision to be finalised. If the school is provisionally accredited, the school will not be considered to be operating illegally before its student-intake day. If the board decides to provisionally accredit the school, the board will also determine the provisional accreditation period that will apply to the school. The school will only be able to be assessed to determine if its operation complies with the accreditation criteria 6 months before the end of the school's provisional accreditation period.

PART 6—SCHOOLS WITH PLANNING APPROVAL UNDER GENERAL PROVISIONS ACT

Division 1—School not a non-State school under General Provisions Act

Clause 190 refers to particular schools to which the following clause applies. These are schools which, immediately before the commencement of this Act, were not classified as non-State schools or schools in receipt of subsidy under the General Provisions Act, but were schools with a current planning approval under the General Provisions Act.

Clause 191 provides that, if a school specified in clause 190 applies for accreditation within 3 years of commencement of the Act, and the application for accreditation corresponds in all of the attributes that are mentioned in clause 16(3) of this Act, to the attributes of the grant of planning approval, as well as to any other conditions that the planning approval may have been subject to, then the governing body of the school will be deemed to be eligible for Government funding for these attributes of the school. The board will have 6 months to decide the application for accreditation.

Division 2—School is a non-State school under General Provisions Act and has planning approval to change aspect of school other than type of education.

Clause 192 specifies particular schools to which the following clauses apply. These are schools which, immediately before the commencement of this Act, were non-State schools under the General Provisions Act, and were schools with a current planning approval to change an aspect of the school, other than type of education, under the *Education (General Provisions) Act 1989*.

Clause 193 refers to a school specified in clause 192 that is provisionally accredited in accordance with clause 176. If the school wants to proceed with the change approved under the General Provisions Act, the school must apply to the board to change its attributes of provisional accreditation. The application to change an attribute of provisional accreditation must be made to the board within 6 months of commencement of this Act, and must correspond in all attributes, including any conditions imposed, to the change approved under the General Provisions Act, if the school's governing body is to be automatically deemed eligible for Government funding for the change.

Clause 194 refers to a school specified in clause 192 that is accredited in accordance with clause 175. If the school wants to proceed with the change approved under the General Provisions Act, the school must apply to the board to change its attributes of accreditation. The application to change an attribute of accreditation must be made to the board within 6 months of commencement of this Act, and must correspond in all attributes, including any conditions imposed, to the change approved under the General Provisions Act, if the school's governing body is to be automatically deemed eligible for Government funding for the change.

Division 3—School is a non-State school under General provisions Act and has planning approval to change type of education

Clause 195 specifies particular schools to which the following clause applies. These are schools which, immediately before the commencement of this Act, were non-State schools under the General Provisions Act, and were schools with a current planning approval to change the type of education offered at the school, under the General Provisions Act

Clause 196 refers to a school specified in clause 195. If the school wants to proceed with the change to type of education approved under the

General Provisions Act, the school must apply to the board for accreditation of the new type of education. The application for accreditation must be made to the board within 6 months of commencement of this Act, and must correspond in all attributes, including any conditions imposed, to the change approved under the General Provisions Act, if the school's governing body is to be automatically deemed eligible for Government funding for the new type of education offered by the school.

PART 7—SCHOOLS FOR WHICH APPLICATION MADE FOR PLANNING APPROVAL UNDER GENERAL PROVISIONS ACT

Division 1—School is not a non-State school under General Provisions Act

Clause 197 provides that where a school, which is not a non-State school, or a school in receipt of subsidy, under the General Provisions Act, has made an application before the commencement of this Act for planning approval under the General Provisions Act and the application has yet to be decided, the application is to be continued to be decided by the Minister under the General Provisions Act.

Clause 198 provides that if the Minister issues a planning approval for a school in accordance with clause 197 and the school's governing body applies for accreditation of the school within three years of commencement of this Act, and the application for accreditation corresponds in all attributes, including any conditions imposed, to the grant of planning approval under the General Provisions Act, then the school will be automatically deemed eligible for government funding for the same attributes, subject to the same conditions.

Division 2—School is a non-State school under General provisions Act and has applied for planning approval to change aspect of school, other than type of education

Clause 199 provides that where a school, that is a non-State school, but not a school in receipt of subsidy, under the General Provisions Act, has made an application before the commencement of this Act for planning approval to change an aspect of the school other than type of education under the General Provisions Act and the application has yet to be decided, the application is to be continued to be decided by the Minister under the General Provisions Act.

Clause 200 refers to where a school is issued a planning approval in accordance with clause 199, and the school is taken to be provisionally accredited in accordance with clause 176. If the school wants to proceed with the change specified in the planning approval, the school must apply to the board to change its attributes of provisional accreditation. The application to change attributes of provisional accreditation must be made to the board within 6 months of commencement of this Act, and must correspond in all attributes, including any conditions imposed, to the change approved under the General Provisions Act, if the school's governing body is to be automatically deemed eligible for Government funding for the change.

Clause 201 refers to where a school is issued a planning approval in accordance with clause 199, and the school is taken to be accredited in accordance with clause 175. If the school wants to proceed with the change specified in the planning approval, the school must apply to the board to change its attributes of accreditation. The application to changes attributes of accreditation must be made to the board within 6 months of commencement of this Act, and must correspond in all attributes, including any conditions imposed, to the change approved under the General Provisions Act, if the school's governing body is to be automatically deemed eligible for Government funding for the change.

Division 3—School is a non-State school under General Provisions Act and has applied for planning approval to change type of education.

Clause 202 provides that where a school, which is a non-State school, but not a school in receipt of subsidy, under the General Provisions Act, has made an application before the commencement of this Act for planning approval to change the type of education under the General Provisions Act

and the application has yet to be decided, the application is to be continued to be decided by the Minister under the General Provisions Act.

Clause 203 refers to where a school is issued a planning approval in accordance with clause 202. If the school wants to proceed with the change of type of education specified in the planning approval, the school must apply to the board for accreditation of the new type of education. The application for accreditation of the new type of education must be made to the board within 6 months of commencement of this Act, and must correspond in all attributes, including any conditions imposed, to the change approved in the grant of planning approval, if the school's governing body is to be automatically deemed eligible for Government funding for the new type of education.

PART 8—REVIEW OF PLANNING APPROVAL DECISIONS

Division 1—Preliminary

Clause 204 provides a definition for 'planning approval decision.'

Division 2—School is not a non-State school under General Provisions Act

Clause 205 provides that where a school, which is not a non-State school, or a school in receipt of subsidy, under the General Provisions Act, has made an application before the commencement of this Act under the planning guidelines under the General Provisions Act for a review of a planning approval decision, the application for review is to be continued to be decided by the Minister under the General Provisions Act.

Clause 206 provides that if a planning approval is granted in accordance with clause 205 and the school's governing body applies for accreditation of the school within three years of commencement of this Act, and the application for accreditation corresponds in all attributes, including any conditions imposed, to the grant of planning approval, then the school will

be automatically deemed eligible for government funding for the same attributes, subject to the same conditions.

Division 3—School is a non-State school under General Provisions Act and obtains planning approval to change aspect of school, other than type of education

Clause 207 provides that where a school, which is a non-State school under the General Provisions Act, has made an application before the commencement of this Act, under the planning guidelines under the General Provisions Act, for a review of a planning approval decision, and the planning approval decision was about a change to an aspect of the school other than type of education, the application for review is to be continued to be decided by the Minister under the General Provisions Act.

Clause 208 refers to a school that is granted planning approval in accordance with clause 207. If the school wants to proceed with the change approved under the General Provisions Act, the school must apply to the board to change its attributes of accreditation. The application to changes attributes of accreditation must be made to the board within 6 months of commencement of this Act if the school's governing body is to be automatically deemed eligible for Government funding for the change. If the planning approval is subject to conditions, then the conditions will also apply if provisional accreditation or accreditation is subsequently granted to the school.

Division 4—School is a non-State school under General Provisions Act and seeks planning approval to change type of education

Clause 209 provides that where a school, that is a non-State school under the General Provisions Act, has made an application before the commencement of this Act, under the planning guidelines under the General Provisions Act, for a review of a planning approval decision, and the planning approval decision was about a change to the type of education offered by the school, the application for review is to be continued to be decided by the Minister under the General Provisions Act.

Clause 210 refers to a school that is granted planning approval in accordance with clause 209. If the school wants to proceed with the change of type of education approved under the General Provisions Act, the school

must apply to the board for accreditation of the new type of education. The application for accreditation of the new type of education must be made to the board within 6 months of commencement of this Act if the school's governing body is to be automatically deemed eligible for Government funding for the new type of education. If the planning approval is subject to conditions, then the conditions will also apply if provisional accreditation or accreditation is subsequently granted to the school.

PART 9—CHANGE OF DETAILS OF NON-STATE SCHOOL STATUS OF SCHOOL UNDER GENERAL PROVISIONS ACT

Clause 211 provides that if an application was made, before the commencement of this Act, under guideline 1.4 of the guidelines mentioned in section 2(2) of the General Provisions Act, for a change in the details of the non-State school status of a school, the application for a change in details is to be continued to be decided by the Minister under the General Provisions Act.

Clause 212 provides that if a school is granted a change in details to its non-State school status in accordance with clause 211, and is granted provisional accreditation in accordance with clause 176, then attributes applying to the provisional accreditation of the school are taken to be changed to accord with the changed details of the school's non-State school status.

Clause 213 provides that if a school is granted a change in details to its non-State school status in accordance with clause 211, and is granted accreditation in accordance with clause 175, then attributes applying to the accreditation of the school are taken to be changed to accord with the changed details of the school's non-State school status.

CHAPTER 8—AMENDMENTS OF ACTS

Clause 214 provides that Schedule 1 amends the Acts mentioned in it. The majority of these changes are to reflect the change to the meaning of the term "non-State school" and omitting sections governing the current regime.

Clause 215 provides that Schedule 2 amends the Acts mentioned in it.

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS OF ACTS

ANTI-DISCRIMINATION ACT 1991

1 *amendment of section 4* omits the definition of "non-State school" and inserts a definition that non-State school means a school accredited or provisionally accredited under the Bill.

CHILD CARE ACT 1991

1 *amendment of section 3* changes the definition of "child care" to add that the education of a child at a school that also provides primary education, in the year immediately before year 1, does not come under the meaning of "child care". This amendment has the effect of ensuring that a preschool attached to a State or provisionally accredited or accredited non-State school is not captured by the requirements of the *Child Care Act 1991*, whereas a preschool which is not attached to such a school is captured.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE ACT 2000

1 *amendment of Schedule 4* omits the definition of "school" and inserts a new definition, defining school as either a State school within the meaning of the *Education (General Provisions) Act 1989,* or a school accredited or provisionally accredited under this Bill.

EDUCATION (CAPITAL ASSISTANCE) ACT 1993

1 *amendment of section 3* omits the definition of non-State school and inserts a definition that non-State school means a school accredited or provisionally accredited under this Bill.

EDUCATION (GENERAL PROVISIONS) ACT 1989

1 *amendment to section 2(1)*—omits definitions relating to the current planning approval processes, as well as the definition of non-State school.

2 *amendment to section 2(1)*—inserts definitions of "board" and "non-State school".

3 *amendment to section 2(2) and 2A*—omits those sections relating to the Minister's decisions to grant non-State school status, which is being completely superseded by this Bill.

4 *amendment to section 117 heading*—omits the heading "Enrolment at School of Distance Education etc" and inserts "Distance education". This change makes it clear that students can be enrolled either at a State school of distance education or a non-State school of distance education.

5 *amendment to section 117 (1) and 118(3)(b)(iii)*—omits the words "the School of Distance Education or any other" and inserts in its place "a non-State school that is accredited to provide distance education or a". The effect of this change is to enable parents of students who come under the distance criteria in section 115 to be able

to chose to enrol their child in either a State school of distance education or a non-State school of distance education.

6 *amendment to Part 8A*—omits Part 8A, being the part relating to planning approval guidelines and processes. These processes are completely superseded by this Bill.

Inserted in its place is "Schools in Receipt of Subsidy" which becomes the new heading for Part 8A. An accountability scheme related to allowances paid by the Minister to a non-State school is then established.

7 *amendment to section 141(1)(b)*—omits the section allowing the Minister to categorise a school as a school in receipt of subsidy and instead inserts a new section 141(1)(b) which deems an operating non-State school eligible for Government funding under this Bill as a school in receipt of subsidy. The effect of this amendment is that once a school has been classified as a school that is eligibility for Government funding, no further decision will be required for the Minister to pay allowances to that school under section 141 or the *Education (Capital Assistance) Act 1993.*

8 *amendment to section 141(3) to (5)*—omits these sections and inserts instead a section allowing the Minister to pay allowances, pursuant to section (2)(b) on reasonable conditions the Minister considers appropriate. This replaces the Minister's current ability to categorise a school as a school in receipt of subsidy on such terms and conditions as the Minister considers necessary or desirable.

9 *amendments to section 141(6)*—renumbers section 414(6) as section 141(4).

10 *amendments to section 141, as amended by this Act*—relocates what was section 141 to part 8A and renumbers the section as 134A.

11 *amendments to section 142, '141'*—amends the reference to section 141 in section 142 to read section 134A.

12 *amendments to section 143*—omits from the heading the term "non-State schools" and replaces it with "places"

13 *amendments to section 143(1)(a) and (2)(a)*—omits references to non-State school. The powers of the Minister to investigate complaints relating to non-State school have now been given to the board under this Bill.

14 *amendments to section 143(1)(d), 'non-State school,'*—omits a reference to non-State schools in this section. The powers of the Minister to investigate complaints relating to non-State school have now been given to the board under this Bill.

15 *amendments to section 143(3), from 'the principal' to '(2)(a),'*—omits a reference to section 143 (2)(a) which has been omitted above.

EDUCATION (SENIOR SECONDARY SCHOOL STUDIES) ACT 1988

1 *amendment to section 4*—omits the definition of non-State school and inserts a definition that non-State school means a school accredited or provisionally accredited under this Bill.

EDUCATION (TEACHER REGISTRATION) ACT 1988

1 *amendment to section 3*—omits the definition of non-State school and inserts a definition that non-State school means a school accredited or provisionally accredited under this Bill.

EDUCATION (TERTIARY ENTRANCE PROCEDURES AUTHORITY) ACT 1990

1 *amendment to section 4*—omits the definition of non-State school and inserts a definition that non-State school means a school accredited or provisionally accredited under this Bill.

EDUCATION (WORK EXPERIENCE) ACT 1996

1 *amendment to schedule*—omits the definition of non-State school and inserts a definition that non-State school means a school accredited or provisionally accredited under this Bill.

WORKCOVER QUEENSLAND ACT 1996

1 *amendment to section 24(4)*—omits the definition of non-State school and inserts a definition that non-State school means a school accredited or provisionally accredited under this Bill.

SCHEDULE 2

OTHER AMENDMENTS OF ACTS

EDUCATION (GENERAL PROVISIONS) ACT 1989

1 *amendment to section 115(2)(a)(i)*—inserts "or" between subsections 115(2)(a)(i) and 115(2)(a)(ii) to make it clear that both subsections refer to different types of dispensations.

2 *Amendment to section 141(1)*—inserts "or" between subsections 141(1)(a) and 141(1)(b).

EDUCATION (TEACHER REGISTRATION) ACT 1988

1 *amendment to section Education (Teacher Registration) Act 1988—Amendment to section 44A(5)* recognises that the offence of 'sexual assault" in the Criminal Code is now prescribed under section 352 of the act. Formerly, the offence was prescribed under section 337. This amendment therefore adopts that change and has the effect of continuing to deem that a "sexual allegation" includes the offence of sexual assault, now prescribed by section 352 of the Criminal Code.

2 *Amendment to Part 8, division 2 heading* omits the heading to the division.

EDUCATION (WORK EXPERIENCE) ACT 1996

1 *Amendment to section 9(2)* omits the monetary figure ($5 000 000) representing the maximum amount payable under the contract of insurance for a claim or injury or damage arising out of work experience and replaces that figure with $10 000 000.

SCHEDULE 3

DICTIONARY

Schedule 3 sets out the dictionary for terms used in this Act.