

Queensland



**EDUCATION AND OTHER
LEGISLATION
AMENDMENT BILL 1999**

Queensland



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LEGISLATION AMENDMENT BILL 1999**

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1994**

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1999

A BILL

FOR

An Act to amend legislation about education, and for another purpose

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Education and Other Legislation Amendment Act 1999*.

4

5

Commencement

6

Clause **2.** This Act commences on 1 January 2000.

7

PART 2—AMENDMENT OF EDUCATION (CAPITAL ASSISTANCE) ACT 1993

8

9

Act amended in pt 2

10

Clause **3.** This part amends the *Education (Capital Assistance) Act 1993*.

11

Amendment of s 3 (Definitions)

12

Clause **4.** Section 3, definition “eligible non-State school”, paragraph (b), ‘affiliated’—

13

14

omit, insert—

15

‘listed’.

16

Education and Other Legislation Amendment

	Amendment of s 9 (Functions)	1
Clause	5. Section 9, ‘affiliated’—	2
	<i>omit, insert—</i>	3
	‘listed’.	4
	 Amendment of s 10 (Affiliation with CAA)	 5
Clause	6.(1) Section 10, heading, ‘Affiliation’—	6
	<i>omit, insert—</i>	7
	‘Listing’.	8
	(2) Section 10, ‘affiliated’—	9
	<i>omit, insert—</i>	10
	‘listed’.	11
	(3) Section 10(3), ‘affiliation’—	12
	<i>omit, insert—</i>	13
	‘listing’.	14
	 Amendment of s 11 (Change of affiliation)	 15
Clause	7.(1) Section 11, ‘affiliation’—	16
	<i>omit, insert—</i>	17
	‘listing’.	18
	(2) Section 11(3), ‘affiliated’—	19
	<i>omit, insert—</i>	20
	‘listed’.	21
	 Amendment of s 15 (Application)	 22
Clause	8. Section 15(2), ‘affiliated’—	23
	<i>omit, insert—</i>	24
	‘listed’.	25

	Amendment of s 18 (Making of application)	1
Clause	9. Section 18(2), ‘affiliated’—	2
	<i>omit, insert—</i>	3
	‘listed’.	4
	Amendment of s 21 (CAA to have regard to available funds)	5
Clause	10. Section 21(1), ‘affiliated’—	6
	<i>omit, insert—</i>	7
	‘listed’.	8
	Amendment of s 22 (CAA may provide capital assistance)	9
Clause	11. Section 22(1), ‘affiliated’—	10
	<i>omit, insert—</i>	11
	‘listed’.	12
	Amendment of s 23 (Return by eligible non-State schools)	13
Clause	12. Section 23(2), ‘affiliated’—	14
	<i>omit, insert—</i>	15
	‘listed’.	16
	Replacement of pt 7 hdg	17
Clause	13. Part 7, heading—	18
	<i>omit, insert—</i>	19
	‘PART 7—VALIDATION OF CERTAIN PAYMENTS AND TRANSITIONAL PROVISIONS	20
		21
	<i>‘Division 1—Validation of certain payments for Act No. 37 of 1993’.</i>	22

	Insertion of new pt 7, div 2	1
Clause	14. After section 27—	2
	<i>insert—</i>	3
	<i>‘Division 2—Transitional provisions for Education and Other Legislation Amendment Act 1999</i>	4 5
	‘References to affiliation with a CAA	6
	‘28.(1) A non-State school affiliated with a CAA immediately before the commencement of this section is taken to be listed with the CAA.	7 8
	‘(2) If a non-State school applied to the Minister to change its affiliation from one CAA to another CAA and the Minister had not made a decision about the application before the commencement of this section, the application may be dealt with by the Minister as an application to change the school’s listing.’.	9 10 11 12 13
	PART 3—AMENDMENT OF EDUCATION (GENERAL PROVISIONS) ACT 1989	14 15
	Act amended in pt 3	16
Clause	15. This part amends the <i>Education (General Provisions) Act 1989</i> .	17
	Amendment of s 2 (Interpretation)	18
Clause	16.(1) Section 2(1), definition “continuing student”—	19
	<i>omit.</i>	20
	(2) Section 2(1), definitions “appointed member”, “coopted student member”, “elected parent member”, “elected staff member” and “elected student member”, ‘section 54(11)’—	21 22 23
	<i>omit, insert—</i>	24
	‘section 54(13)’.	25

	Amendment of s 18 (Establishment of school support centres, student hostels and residential colleges and other State educational institutions)	1 2 3
Clause	17. Section 18, heading, from ‘school support’ to ‘colleges’— <i>omit, insert</i> — ‘ certain centres, student hostels, student residential colleges ’.	4 5 6
	Amendment of s 26 (Religious instruction in school hours)	7
Clause	18.(1) Section 26(1), from ‘of religion’ to ‘religious denomination’— <i>omit, insert</i> — ‘of a religious denomination or society, or an accredited representative of a religious denomination or society’. (2) Section 26(1), ‘religious society or denomination’— <i>omit, insert</i> — ‘denomination or society’.	8 9 10 11 12 13 14
	Amendment of s 32 (Dealing with submissions against suspensions)	15
Clause	19. Section 32(2)(a)— <i>omit, insert</i> ‘(a) as soon as possible tell the student and the principal— (i) about the supervisor’s decision; and (ii) if the supervisor’s decision allows the student to return to school earlier than if the principal’s decision had been affirmed—about when the student may return to school; and’.	16 17 18 19 20 21 22 23
	Amendment of s 36 (Exclusion of student)	24
Clause	20. Section 36(5)(a), ‘promptly tell the student’—	25

	<i>omit, insert—</i>	1
	‘as soon as possible tell the student and the principal’.	2
	Amendment of s 38 (Dealing with submissions against exclusions)	3
Clause	21. Section 38(2)(a)—	4
	<i>omit, insert—</i>	5
	‘(a) as soon as possible tell the excluded person and the principal—	6
	(i) about the chief executive’s decision; and	7
	(ii) if the chief executive’s decision allows the excluded person	8
	to return to school earlier than if the supervisor’s decision	9
	had been affirmed—about when the excluded person may	10
	return to school; and’.	11
	Amendment of s 42 (Dealing with submissions against cancellations of enrolment)	12
		13
Clause	22. Section 42(2)(a)—	14
	<i>omit, insert—</i>	15
	‘(a) as soon as possible tell the person under the cancellation and the	16
	principal—	17
	(i) about the supervisor’s decision; and	18
	(ii) if the supervisor’s decision allows the person under the	19
	cancellation to return to school earlier than if the principal’s	20
	decision had been affirmed—about when the person under	21
	the cancellation may return to school; and’.	22
	Replacement of s 46 (Time notices take effect)	23
Clause	23. Section 46—	24
	<i>omit, insert—</i>	25
	‘When decisions take effect	26
	‘ 46.(1) Notice of a decision under this part about a student must be given	27

Education and Other Legislation Amendment

to the student under the section under which the decision is made.	1
‘(2) A decision takes effect—	2
(a) if the student must be told about the decision and, under the decision, the student may return to school earlier than if the decision was to affirm another decision—on the day the student is told about the decision; or	3 4 5 6
(b) otherwise—on the day the student is given written notice of the decision or a later day stated in the notice.’.	7 8

	Amendment of s 54 (Membership of school councils)	9
--	----------------------------------------------------------	---

Clause	24.(1) Section 54(6)(b) and (c)—	10
	<i>omit, insert—</i>	11
	‘(b) otherwise—by a secret ballot under the council’s constitution.’.	12
	(2) Section 54(7)—	13
	<i>omit, insert—</i>	14
	‘(7) The elected staff members of a school’s council must be elected by a secret ballot, held under the council’s constitution, of all the persons who are—	15 16 17
	(a) employed by a department and assigned to the school; or	18
	(b) otherwise employed full-time or part-time at the school.’.	19
	(3) Section 54(11)—	20
	<i>renumber</i> as section 54(13).	21
	(4) Section 54, after subsection (10)—	22
	<i>insert—</i>	23
	‘(11) Subsection (12) applies if, at the time of closure of nominations for an elected member under the constitution of the relevant association or council, the number of nominations for elected members is not more than the number required to be elected.	24 25 26 27
	‘(12) The person who, under the relevant constitution is responsible for conducting the election for the elected members, must declare the person or	28 29

persons who are properly nominated under the constitution to have been elected.’. 1
2

Amendment of s 122 (Calculation of allocation where student begins schooling at State educational institution) 3
4

- Clause **25.** Section 122(2)(d)— 5
omit, insert— 6
- ‘(d) a person who, at any time before the end of semester 2 in 1997, 7
was enrolled in a State educational institution, other than a student 8
mentioned in paragraph (e); 9
- (e) a student enrolled in a year level mentioned in column 1 of 10
section 123(3) at the end of semester 2 in 1997.’. 11

Amendment of s 123 (Calculation of allocation if s 122(1) does not apply) 12
13

- Clause **26.(1)** Section 123(2), ‘or (c)’— 14
omit, insert— 15
- ‘, (c) or (d)’ 16
- (2)** Section 123(4)— 17
omit, insert— 18
- ‘**(4)** However, if the principal of a State educational institution decides 19
that the application of subsection (3) to a student mentioned in 20
section 122(2)(e) is inappropriate, the principal must decide the student’s 21
remaining allocation. 22
- ‘**(4A)** The principal’s decision that it is inappropriate for subsection (3) to 23
apply to the student is, for section 124(2), a decision about the student’s 24
remaining allocation.’. 25

Amendment of s 125 (Annual notice about remaining allocation) 26

- Clause **27.(1)** Section 125, heading— 27
omit, insert— 28

	‘Notice to certain students about remaining allocation’.	1
	(2) Section 125(1)—	2
	<i>omit, insert—</i>	3
	‘125.(1) This section applies to students—	4
	(a) who are enrolled in semester 2 in a calendar year in a State educational institution; and	5 6
	(b) whose remaining allocation will be 4, or less than 4, semesters at the end of the calendar year.’.	7 8
	Insertion of new ss 125A and 125B	9
Clause	28. Part 8, division 2, after section 125—	10
	<i>insert—</i>	11
	‘Other notices about allocation	12
	‘125A.(1) This section applies to a student who—	13
	(a) is enrolled in a State educational institution for the first time; or	14
	(b) is repeating, in a State educational institution, a year for which the student has already been enrolled in a State educational institution.	15 16
	‘(2) The principal must give the student written information about the allocation of State education under this part.	17 18
	‘(3) If the student to whom written notice must be given is under 18 years, the written information must be given also to—	19 20
	(a) if a parent has care and control of the student—the parent; or	21
	(b) if another adult has care and control of the student—the adult.	22
	‘(4) For a person mentioned in subsection (1)(b), the notice must be given before the student begins to repeat the year.	23 24
	‘Copy of notices under this part to be given to parent etc.	25
	‘125B.(1) If a person is required, under this part, to give a notice to a student and the student is under 18 years, the person must, as soon as possible, give a copy of the notice to—	26 27 28

Education and Other Legislation Amendment

(a) if a parent has care and control of the student—the parent; or 1

(b) if another adult has care and control of the student—the adult. 2

‘(2) In deciding to whom a notice must be given under subsection (1), 3
the person required to give the notice may rely on the relevant State 4
educational institution’s records about— 5

(a) if a parent, or another adult, has care and control of the student; 6
and 7

(b) the current residential address of the parent or adult.’. 8

Insertion of new div 1 hdg 9

Clause 29. Before section 153— 10

insert— 11

*‘Division 1—Transitional provisions before Education and Other 12
Legislation Amendment Act 1999’.* 13

Replacement of s 158 (Application of part to continuing students) 14

Clause 30. Section 158— 15

omit, insert— 16

*‘Division 2—Transitional provision for Education and Other 17
Legislation Amendment Act 1999* 18

**‘Transitional provision about existing elected members of school 19
councils** 20

‘158.(1) Subject to sections 56, 57 and 58,¹ an existing elected member 21
continues to be a member until the end of the term for which the member 22
was elected. 23

‘(2) In this section— 24

¹ Sections 56 (Terms of office for elected and appointed members),
57 (Ineligibility on conviction of indictable offence) and 58 (Appointment not
affected by other laws restricting employment)

“**existing elected member**” means a person who, immediately before the commencement of this section, was an elected parent member or an elected staff member.’. 1
2
3

PART 4—AMENDMENT OF EDUCATION (OVERSEAS STUDENTS) ACT 1996 4 5

Act amended in pt 4 6

Clause 31. This part amends the *Education (Overseas Students) Act 1996*. 7

Replacement of s 33 (Delegation) 8

Clause 32. Section 33— 9
omit, insert— 10

‘Delegation’ 11

‘33.(1) The chief executive may delegate the chief executive’s powers under this Act to— 12
13

(a) an appropriately qualified person; or 14

(b) a body whose members are appropriately qualified, including a committee established by the chief executive under part 4, division 5.2 15
16
17

‘(2) In this section— 18

“**appropriately qualified**” means having qualifications, experience or standing appropriate to exercise the power. 19
20

Example of ‘standing’— 21

A person’s classification level in the public service.’. 22

² Part 4 (Miscellaneous), division 5 (Committees)

	Renumbering of pt 4, div 5	1
Clause	33. Part 4, division 5—	2
	<i>renumber</i> as part 4, division 6.	3
	Insertion of new div 5	4
Clause	34. After section 33—	5
	<i>insert—</i>	6
	<i>‘Division 5—Committees</i>	7
	<i>‘Chief executive may establish committees</i>	8
	‘33A.(1) As the chief executive considers appropriate, the chief executive	9
	may establish committees to advise the chief executive or for another	10
	purpose.	11
	‘(2) For each committee, the chief executive must state its functions and	12
	terms of reference.	13
	‘(3) A committee must report to the chief executive as the chief executive	14
	requires.	15
	<i>‘Committee members</i>	16
	‘33B.(1) The chief executive may appoint persons to be members of each	17
	committee as the chief executive considers appropriate.	18
	‘(2) However, the chief executive must appoint appropriately qualified	19
	persons to be the members of a committee.	20
	‘(3) In this section—	21
	“appropriately qualified” includes having the qualifications or experience	22
	appropriate to the functions and terms of reference of the committee.	23
	<i>‘Committee chairperson</i>	24
	‘33C. The chief executive must appoint a member of a committee to be	25
	the chairperson of the committee.	26

‘Disclosure of interest

‘33D.(1) This section applies to a member of a committee (the **“interested member”**) if—

(a) the interested member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the committee; and

(b) the interest could conflict with the proper performance of the person’s duties about the consideration of the issue.

‘(2) As soon as practicable after the relevant facts come to the interested member’s knowledge, the member must disclose the nature of the interest to a meeting of the committee.

‘(3) Unless the committee otherwise directs, the interested member must not—

(a) be present when the committee considers the issue; or

(b) take part in a decision of the committee about the issue.

‘(4) The interested member must not be present when the committee is considering whether to give a direction under subsection (3).

‘(5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other person must not—

(a) be present when the committee is considering whether to give a direction under subsection (3); or

(b) take part in making the decision about giving the direction.

‘(6) Despite section 33I, the members present at a committee meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3), are a quorum of the committee for considering or deciding the issue or giving the direction if—

(a) an interested member or interested members are not present because of this section; and

(b) there would be a quorum if the interested member or members were present.

‘(7) A disclosure under subsection (2) must be recorded in the committee’s minutes.

‘Fees and expenses

1

‘33E.(1) A member of a committee, including the committee’s chairperson, is not entitled to receive a fee or allowance for attending committee meetings or for conducting business for the committee.

2

3

4

‘(2) However, the chief executive may approve payment for reasonable expenses incurred in attending a committee meeting.

5

6

‘(3) An approval under subsection (2) may apply generally or for a particular case.

7

8

‘Conduct of business

9

‘33F. Subject to this division, a committee may conduct its business in the way it considers appropriate.

10

11

‘Times and places of meetings

12

‘33G.(1) A committee may meet at the times and places the committee decides.

13

14

‘(2) Without limiting subsection (1), a committee may hold a meeting, or allow a member to take part in a meeting, by telephone, video link or other form of communication allowing reasonably contemporaneous and continuous communication between the members taking part in the meeting.

15

16

17

18

19

‘(3) A member who takes part in a meeting by use of communication mentioned in subsection (2) is taken to be present at the meeting.

20

21

‘Presiding at meetings

22

‘33H.(1) The chairperson of a committee must preside at all meetings of the committee if the chairperson is present.

23

24

‘(2) If the chairperson is not present at a meeting, a committee member chosen by the members present at the meeting must preside.

25

26

‘Quorum	1
‘33I. A quorum for a committee is the number equal to two-thirds of the number of its members or, if two-thirds is not a whole number, the next highest whole number.	2 3 4
‘Voting	5
‘33J.(1) A committee must perform its functions or, if powers are delegated to the committee, exercise the powers by a majority vote of the members present at a properly constituted meeting.	6 7 8
‘(2) The person presiding at a meeting has a deliberative vote and, if the votes on a question are equal, also has a casting vote.	9 10
‘(3) A member who abstains from voting is taken to have voted for the negative.	11 12
‘No attendance by proxy	13
‘33K. A member of a committee may not attend a committee meeting by proxy.’.	14 15
PART 5—AMENDMENT OF EDUCATION (SCHOOL CURRICULUM P-10) ACT 1996	16 17
Act amended in pt 5	18
Clause 35. This part amends the <i>Education (School Curriculum P-10) Act 1996</i> .	19
Amendment of s 27 (Attendance by appointed member’s proxy or chief executive’s nominee)	20 21
Clause 36.(1) Section 27, heading—	22
<i>omit, insert—</i>	23
‘Attendance by proxy’.	24

Education and Other Legislation Amendment

(2) Section 27(4)— 1

omit. 2

(3) Section 27(3)— 3

renumber as section 27(4). 4

(4) Section 27— 5

insert— 6

‘(3) Also, the chief executive’s nominee may attend a council meeting by proxy.’. 7
8

Insertion of new pt 2, div 6A 9

Clause 37. After section 32— 10

insert— 11

‘Division 6A—Chief executive’s nominee 12

‘Chief executive may appoint nominee 13

‘32A.(1) The chief executive may, in writing, appoint a person (the 14
“**chief executive’s nominee**”) to attend council meetings or executive 15
committee meetings for the chief executive during any period, or during all 16
periods, when the chief executive can not attend for any reason. 17

‘(2) When appointing a person to attend council meetings or executive 18
committee meetings, the chief executive must, if practicable, appoint a 19
person who has previously attended the meetings as the chief executive’s 20
nominee. 21

‘(3) The chief executive’s nominee must be an appropriately qualified 22
public service officer employed in the department. 23

‘(4) The chief executive must give the chairperson of the council written 24
notice of— 25

(a) the appointment of a person under subsection (1); and 26

(b) if the instrument of appointment of the person is amended or 27
repealed—the amendment or repeal. 28

‘(5) In this section— 29

“appropriately qualified” means having qualifications, experience or standing appropriate to exercise the power. 1
2

Example of ‘standing’— 3

A person’s classification level in the public service.’. 4

Amendment of sch 3 (Dictionary) 5

Clause **38.** Schedule 3— 6

insert— 7

‘**“chief executive’s nominee”** see section 32A(1).’ 8

PART 6—AMENDMENT OF EDUCATION 9

(TERTIARY ENTRANCE PROCEDURES 10

AUTHORITY) ACT 1990 11

Act amended in pt 6 12

Clause **39.** This part amends the *Education (Tertiary Entrance Procedures* 13

Authority) Act 1990. 14

Amendment of s 19 (Quorum and business of the authority) 15

Clause **40.** Section 19(1)— 16

omit, insert— 17

‘**19.(1)** A quorum for the authority is the number equal to one-half of the 18

number of its members or, if one-half is not a whole number, the next 19

highest whole number.’. 20

**PART 7—AMENDMENT OF JAMES COOK
UNIVERSITY ACT 1997**

	1
	2
	3
Clause	4
	5
Clause	6
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	11
	12
Clause	13
	14
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	22
Clause	23
	24
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**PART 8—AMENDMENT OF PUBLIC SECTOR
ETHICS ACT 1994**

	1
	2
Act amended in pt 8	3
Clause 45. This part amends the <i>Public Sector Ethics Act 1994</i> .	4
Amendment of s 2 (Definitions)	5
Clause 46. Section 2, definition “State educational institution”—	6
<i>omit.</i>	7