



# **Grammar Schools Act 2016**

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Queensland

# Grammar Schools Act 2016

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# Grammar Schools Act 2016

**An Act to regulate the governance and administration of grammar schools**

## **Part 1 Preliminary**

### **Division 1 Introduction**

#### **1 Short title**

This Act may be cited as the *Grammar Schools Act 2016*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

#### **3 Main purpose of Act and its achievement**

- (1) The main purpose of this Act is to maintain public confidence in grammar schools.
- (2) The main purpose is achieved by regulating the governance and administration of grammar schools.

#### **4 Act binds all persons**

- (1) This Act binds all persons, including the State.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

## **Division 2                    Interpretation**

### **5            Definitions**

The dictionary in schedule 1 defines particular words used in this Act.

### **6            Meaning of *grammar school***

Each of the following schools is a *grammar school*—

- (a) Brisbane Girls Grammar School;
- (b) Brisbane Grammar School;
- (c) Ipswich Girls' Grammar School including Ipswich Junior Grammar School;
- (d) Ipswich Grammar School;
- (e) Rockhampton Girls Grammar School;
- (f) The Rockhampton Grammar School;
- (g) Toowoomba Grammar School;
- (h) Townsville Grammar School.

## **Part 2                    Boards of trustees**

### **Division 1                Establishment**

#### **7            Establishment generally**

There is a board of trustees for each grammar school.

#### **8            Legal status**

A board—

- (a) is a body corporate; and

- (b) may sue and be sued in its corporate name.

## 9 Relationship with State

A board does not represent the State.

## 10 Application of other Acts

- (1) A board is a statutory body under—
- (a) the *Financial Accountability Act 2009*; and
  - (b) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B explains how that Act affects a board's powers.

## Division 2 Functions

### 11 Functions

The functions of a board are as follows—

- (a) to supervise, maintain and control the operations of the board's school;
- (b) to erect, alter, add to, purchase or sell buildings used or to be used for the board's school;
- (c) to effect general improvements to the premises used or to be used for the board's school;
- (d) to provide an educational program for the board's school;
- (e) to make policies and procedures about—
  - (i) fees and charges payable in relation to students enrolled or to be enrolled at the board's school; and
  - (ii) the discipline and conduct of students enrolled at the board's school; and

- (iii) the management and control of the board's school;  
and
- (iv) the matters mentioned in paragraphs (a) to (d);
- (f) any other function given to the board under this Act or another Act.

## **Division 3                      Powers**

### **12            General powers**

A board has all the powers of an individual, and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, deal with and dispose of property; and
- (c) do anything else necessary or convenient to be done in performing its functions.

### **13            Power to make by-laws**

- (1) A board may make by-laws about elections under this Act, including by-laws about the following—
  - (a) the electoral eligibility amount for the board for all elections or a particular election;
  - (b) when an election is to be held;
  - (c) the maximum number of terms for which a person may be elected as a member.
- (2) The board may also make by-laws about the conduct of its business, including—
  - (a) when and how meetings are held; and
  - (b) the adjournment of meetings; and
  - (c) who must preside at meetings; and

- (d) how a conflict of interest of a member must be identified, declared and dealt with.
- (3) A by-law made under this section—
  - (a) has effect only to the extent it is consistent with this Act; and
  - (b) is not subordinate legislation.

## **Division 4                    Membership**

### **14        Members**

- (1) A board consists of at least 7 but no more than 9 persons (each a *member*), as follows—
  - (a) 4 members nominated by the Minister;
  - (b) 3 members elected under section 15;
  - (c) up to 2 additional members chosen by the board and nominated by the Minister under subsection (2).
- (2) The Minister must nominate an additional member or members chosen by the board if—
  - (a) the board asks the Minister to nominate the additional member or members; and
  - (b) the Minister is satisfied of the matters mentioned in subsection (5)(a) for the additional member or members.
- (3) Each member must be appointed by the Governor in Council.
- (4) A person is eligible to be an elected member only if the person—
  - (a) has donated the electoral eligibility amount for the board to the board's grammar school; and
  - (b) has not already served the maximum number of terms as a member under the board's by-laws.
- (5) Before nominating a person for appointment to the board, the Minister must—

- (a) be satisfied the person has—
  - (i) a sufficient understanding, or the ability to rapidly acquire a sufficient understanding, of legislation applying to grammar schools; and
  - (ii) the skills, experience or expertise in commerce, corporate governance, economics, finance, law, management or education, or another area the Minister considers relevant or necessary to support the board in performing its functions; and
- (b) for a nomination other than a nomination for an additional member under subsection (2)—
  - (i) consult with the board about the proposed nomination; and
  - (ii) consider the board's submissions about the proposed nomination, including, for example, the board's submissions about the effect of the nomination on the composition of the board.

## 15 Elections

- (1) This section applies in relation to an election for section 14(1)(b).
- (2) The election must be held under this Act.
- (3) If the election is held and insufficient persons are elected to comply with section 14(1)(b)—
  - (a) the Minister may nominate the number of persons required to comply with that section; and
  - (b) a person nominated by the Minister under this subsection is taken to have been elected for that section.
- (4) A person may not vote in an election for a board member unless the person has donated the electoral eligibility amount to the board's grammar school.

## **16 Term of appointment**

- (1) A member is appointed for—
  - (a) 4 years; or
  - (b) if the board asks the Minister for a shorter term for a member mentioned in section 14(1)(a) or (c)—the shorter term.
- (2) If a successor has not been appointed by the end of the member's term, the member continues to hold office until a successor is appointed.

## **17 Chairperson and deputy chairperson**

- (1) The members of a board must elect 1 member as chairperson and another member as deputy chairperson.
- (2) The chairperson and deputy chairperson hold office for the current term of their appointment as a member of the board.
- (3) The office of the chairperson becomes vacant if the chairperson—
  - (a) resigns from office by giving a signed notice of resignation to the board; or
  - (b) stops being a member.
- (4) However, a person may continue being a member after resigning the office of chairperson.
- (5) The deputy chairperson is to act as chairperson—
  - (a) during a vacancy in the office of chairperson; and
  - (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

## **18 Disqualification as member**

- (1) A person is disqualified from becoming or continuing as a member if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
  - (b) is an insolvent under administration; or
  - (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
  - (d) does not consent to the Minister requesting a report about the person's criminal history under section 21.
- (2) However, subsection (1)(a), (b) or (c) does not apply to a person proposing to become a member if the Minister gives written approval for the person to become a member despite the conviction, being an insolvent under administration or being disqualified from managing corporations.
- (3) Also, subsection (1)(a), (b) or (c) does not apply to a person who was a member when the person was convicted, became an insolvent under administration or was disqualified from managing corporations if the Minister gives the chairperson written notice that—
- (a) the person is restored as a member; and
  - (b) the person may be later reappointed as a member despite the conviction, being an insolvent under administration or being disqualified from managing corporations.
- (4) The Minister may give a notice under subsection (2) or (3) only if the Minister considers it would be reasonable to do so, having regard to the circumstances of the offence of which the person has been convicted or the circumstances under which the person became an insolvent under administration or was disqualified from managing corporations.
- (5) If the Minister gives a notice under subsection (3) about a person, the person is restored as a member on the day the chairperson receives the notice.
- (6) The restored member's term of appointment as a member ends when it would have ended if the member had not been convicted of the offence, become an insolvent under administration or been disqualified from managing corporations.

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## **19 Vacancy in office of member**

- (1) The office of a member of a board becomes vacant if the member—
  - (a) resigns office by giving a signed notice of resignation to the Minister; or
  - (b) is absent without permission of the board from 3 consecutive meetings of the board of which proper notice was given to the member; or
  - (c) is disqualified from continuing as a member under section 18.
- (2) If the office of a member becomes vacant before the end of the member's term of office, the Minister may appoint a person in relation to whom the matters mentioned in section 14(5) have been satisfied to the office for the remaining part of the term.
- (3) If the member whose office has become vacant was a member nominated by the Minister mentioned in section 14(1)(a), the Minister must—
  - (a) consult with the board about the proposed appointment; and
  - (b) consider the board's submissions about the proposed appointment, including, for example, the board's submissions about the effect of the appointment on the composition of the board.
- (4) If the member whose office has become vacant was elected—
  - (a) the appointment under subsection (2) must be made from a panel of persons, nominated by the board, who are eligible for election; and
  - (b) the person appointed is taken to have been elected for the purpose of section 14(1)(b).
- (5) If the member whose office has become vacant was a member nominated by the Minister mentioned in section 14(1)(c), the Minister may only appoint a person chosen by the board.

- (6) The Minister's power to appoint a person under this section does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25.

## **20 Leave of absence**

- (1) The Minister may—
- (a) approve a leave of absence for a member; and
  - (b) appoint another person in relation to whom the matters mentioned in section 14(5) are satisfied to act in the office of the member during the leave of absence.
- (2) If the member is a member nominated by the Minister mentioned in section 14(1)(a), the Minister must—
- (a) consult with the board about the proposed appointment; and
  - (b) consider the board's submissions about the proposed appointment, including, for example, the board's submissions about the effect of the appointment on the composition of the board.
- (3) If the member is a member nominated by the Minister mentioned in section 14(1)(c), the Minister may only appoint a person chosen by the board.
- (4) This section does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(v).
- (5) If the Minister approves a leave of absence for the deputy chairperson, the board may appoint another member to be the deputy chairperson during the leave of absence.

## **Division 5 Criminal history**

### **21 Criminal history report**

- (1) To decide if a person is disqualified from becoming or continuing as a member, the Minister may ask the commissioner of the police service for—

- (a) a written report about the criminal history of the person;  
and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
  - (3) The commissioner of the police service must comply with the request.
  - (4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.

## **23 Changes in criminal history must be disclosed**

- (1) This section applies if a person who is a member is convicted of an indictable offence during the term of the member's appointment.
- (2) The person must, unless the person has a reasonable excuse, immediately give notice of the conviction to the Minister.

Maximum penalty—100 penalty units.

- (3) The notice must include all of the following—
  - (a) the existence of the conviction;
  - (b) when the offence was committed;
  - (c) details adequate to identify the offence;
  - (d) the sentence imposed on the person.

## **23A Confidentiality of criminal history information**

- (1) This section applies to a person who possesses either of the following because the person is or was an officer, employee or agent of the department—
  - (a) a report or information given to the Minister under section 21;

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- (b) a notice or information given to the Minister under section 23.
- (2) The report, notice or information is *criminal history information*.
- (3) The person must not, directly or indirectly, disclose criminal history information to any other person unless the disclosure is permitted under subsection (4).  
Maximum penalty—100 penalty units.
- (4) The person is permitted to disclose the criminal history information to another person—
  - (a) to the extent necessary to perform the person’s functions under this Act; or
  - (b) if the disclosure is authorised under an Act; or
  - (c) if the disclosure is otherwise required or permitted by law; or
  - (d) if the person to whom the information relates consents to the disclosure; or
  - (e) if the disclosure is in a form that does not identify the person to whom the information relates; or
  - (f) if the information is, or has been, lawfully accessible to the public.
- (5) The Minister must ensure a document containing criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it was given.

## **Division 6                      Financial matters**

### **24                      Budget**

- (1) A board must, before 28 January of each year, develop and approve a budget for the board’s school for the year.

- (2) The budget must include the way in which amounts received by the board by way of a bequest, contribution, donation, gift or grant are to be spent.

## **25 Establishment of trust funds**

A board may establish and administer trust funds for a purpose relating to the performance and exercise of the board's functions and powers.

## **26 Establishment of investment common funds**

- (1) A board may establish and administer 1 or more investment common funds for the collective investment of funds belonging to the board's school, trust funds and other funds held by or in the custody of the board's school.
- (2) The board may add funds to, or withdraw funds from, an investment common fund, without incurring any liability for breach of trust.

## **27 Management of investment common funds**

- (1) A board must periodically distribute the income of an investment common fund among each fund forming the investment common fund (each a *component fund*), having regard to the share of each component fund in the investment common fund during the period in which the income is derived.
- (2) Despite subsection (1), the board may—
  - (a) add a part of the income of the investment common fund to the fund's capital; or
  - (b) use a part of the income to establish or augment another fund as a provision against capital depreciation or reduction of income.
- (3) If a component fund is comprised of an amount allocated for spending for a stated purpose, the board may pay all or part of the interest that would have been distributed to the component

fund for the amount to its general account to the extent the interest is not required for the stated purpose.

## **Part 3                      Staff and business of boards**

### **Division 1                Staff**

#### **28            Employment of staff**

- (1) A board—
  - (a) must—
    - (i) employ a secretary at all times; and
    - (ii) ensure a secretary is employed whenever a vacancy occurs in that office; and
  - (b) may employ staff as it considers appropriate to perform its functions or exercise its powers, including, for example, administrative officers, teachers and clerks.
- (2) Staff employed by the board under this section—
  - (a) are to be paid the remuneration and allowances decided by the board; and
  - (b) are employed under this Act and not the *Public Sector Act 2022*.

### **Division 2                Business and meetings**

#### **29            Conduct of business**

Subject to this division, a board may conduct its business, including its meetings—

- (a) in the way it considers appropriate; and
- (b) in accordance with any by-laws of the board about the conduct of its business.

### **30 Quorum**

A quorum for a meeting of a board is a majority of its members for the time being.

### **31 Conduct of meetings**

- (1) A question at a meeting of a board must be decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the chairperson also has a casting vote.
- (3) A member who abstains from voting is taken to have voted for the negative.
- (4) The board may hold meetings, or allow members to take part in meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meetings, including, for example, teleconferencing.
- (5) A member who takes part in a meeting of the board under subsection (4) is taken to have been present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
  - (a) notice of the resolution is given under procedures approved by the board; and
  - (b) a majority of members agrees in writing to the resolution.

### **32 Validity of decisions**

A decision of a board is not invalidated only because—

- (a) there is a vacancy in the membership of the board; or
- (b) there is a defect or irregularity in the appointment of a member of the board.

### **33 Authentication of documents**

A document made by a board, other than a document required to be sealed, is sufficiently made if it is made or signed by the chairperson of the board, or the secretary of the board at the direction of the chairperson.

## **Division 3 Interaction between Minister and boards**

### **34 Board must notify Minister about financial viability**

- (1) A board must give the Minister written notice of a matter that raises a significant concern about the financial viability of the board's school.

*Examples of matters that may raise a significant concern about the school's financial viability—*

- a proceeding started against the school that may result in payment of a significant amount of damages or legal costs
  - a significant decrease in enrolments at the school
- (2) The notice must be given immediately after the board becomes aware of the matter.

### **35 Minister may require information or documents**

- (1) The Minister may, by written notice, ask a board to do the following within a stated reasonable time and in a stated reasonable way—
- (a) give the Minister relevant information in the board's knowledge about a stated matter;
  - (b) give the Minister, or make available for inspection by the Minister, a relevant document or copy of a relevant document about a stated matter in the board's possession or control.
- (2) The board must comply with the request.

- 
- (3) Unless the Minister is satisfied there are exceptional circumstances, the Minister must consult with the board about the information or documents that may be sought by the Minister before giving the board a notice under this section.
  - (4) If a document is given to the Minister, the Minister may keep the document to copy it and must return the document to the board as soon as practicable after copying it.
  - (5) The Minister may disclose the information, or give the document or copy of the document, to an entity the Minister considers appropriate to help the Minister assess—
    - (a) the financial viability of the board’s school; or
    - (b) the way amounts provided to the board by the State are being used; or
    - (c) another matter relevant to the way the board is carrying out its functions.
  - (6) In this section—

*relevant*, in relation to information or a document, means relating to the board’s powers or functions under this Act.

## 36 Minister may give directions

- (1) The Minister may give a board a written direction about a matter relevant to its functions, if the Minister is satisfied the direction is necessary in the interests of the board’s school to ensure the school’s financial viability.

*Example of a direction—*

a direction to engage an external person to provide expert advice to the board about stated matters that may affect the school’s financial viability

- (2) The board must comply with the direction.
- (3) Unless the Minister is satisfied there are exceptional circumstances, the Minister must advise a board that the Minister proposes to give the board a direction, and consult with the board about the matters proposed to be dealt with in the direction, before giving the direction.

- (4) The board must include the details of each direction given to it during a financial year in its annual report for the year under the *Financial Accountability Act 2009*.

## Part 4 Administrators

### Division 1 Appointment

#### 37 Appointment

The Minister may, by gazette notice, appoint a person as administrator of a board.

#### 38 Basis for appointment

The Minister may make the appointment only if—

- (a) the board asks the Minister to make the appointment; or
- (b) the board is given a show cause notice under the *Education (Accreditation of Non-State Schools) Act 2017*, section 67; or
- (c) the Minister reasonably believes the school is no longer financially viable or is in danger of becoming financially non-viable.

#### 39 Notice of proposed appointment

- (1) Before making the appointment, the Minister—
- (a) must give the board a written notice stating—
    - (i) the Minister proposes to appoint a person as administrator of the board; and
    - (ii) the reasons for the proposed appointment; and
    - (iii) the board may, within a stated period of at least 14 days (the *stated period*), give the Minister a written response to the proposed appointment; and

- (b) must consider any written response received from the board within the stated period.
- (2) However—
  - (a) if the Minister is satisfied there are exceptional circumstances, the stated period may be less than 14 days; and
  - (b) with the board’s written agreement, the stated period may be less than 14 days or the Minister may make the appointment before the stated period; and
  - (c) subsection (1) does not apply if the board has asked the Minister to make the appointment.
- (3) If, after giving a notice under subsection (1), the Minister decides not to make the appointment, the Minister must give the board a written notice of the decision.
- (4) If the Minister decides to make the appointment, the Minister must, before publishing the gazette notice under which the appointment is made, give a notice of the decision to—
  - (a) the board; and
  - (b) the Non-State Schools Accreditation Board under the *Education (Accreditation of Non-State Schools) Act 2017*.

#### **40 Suitability of proposed appointee**

- (1) The Minister may make the appointment only if the Minister is satisfied the proposed appointee is appropriately qualified and is otherwise suitable to be appointed as administrator.
- (2) A person who has agreed to a proposed appointment must advise the Minister, before the appointment is made, whether the person is aware of a conflict of interest that may arise in the course of the person acting as administrator.
- (3) A person must not state anything to the Minister under subsection (2) that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (4) The *Working with Children Check Act 2000*, chapter 7, applies to the appointment as if it were employment by the Minister in regulated employment under that Act.

#### **41 Terms of appointment**

- (1) The gazette notice under which the appointment is made must state the following—
- (a) the appointee's name;
  - (b) the grammar school for which the board is established;
  - (c) the day the appointment takes effect;
  - (d) the term of the appointment;
  - (e) any conditions of the appointment.
- (2) The gazette notice may also state anything else about the appointment the Minister considers appropriate.

#### **42 Notice to parents about appointment**

After giving notice under section 39(4) to the board of a grammar school, and before publishing the gazette notice under which the appointment is made, the Minister must take reasonable steps to notify the parents of students at the school (the *interested parents*) about the proposed appointment.

#### **43 Variation of appointment**

- (1) The Minister may, by gazette notice, vary the appointment by extending or shortening the term of the appointment or amending the conditions of the appointment.
- (2) Before varying the appointment, the Minister must—
- (a) give the board a written notice of the proposed variation;  
and

- (b) take reasonable steps to notify the interested parents about the proposed variation.

#### **44 Early ending of appointment**

- (1) Before the term of the appointment ends—
  - (a) the Minister may end the appointment by gazette notice; or
  - (b) the administrator may end the appointment by signed notice given to the Minister.
- (2) Also, the appointment ends if an appointee for the board is appointed under the *Statutory Bodies Financial Arrangements Act 1982*, section 24.
- (3) If the appointment ends under this section, the Minister must immediately notify the board and take reasonable steps to notify the interested parents.

#### **45 Replacement of administrator**

- (1) If the appointment ends under section 44, the Minister may appoint someone else as administrator of the board.
- (2) This division, other than section 39, applies to the appointment.

### **Division 2 Conduct of administration**

#### **46 Application of division**

This division applies during the appointment of an administrator of a board.

#### **47 Administrator's powers and functions**

- (1) The administrator has the board's powers and functions.

- (2) This Act and other Acts apply to the administrator, with all necessary changes, as if the administrator were the board.
- (3) The *Education (Accreditation of Non-State Schools) Act 2017* applies to the administrator, with all necessary changes, as if the administrator were the school's governing body.

#### **48 Direction by Minister**

- (1) The administrator is subject to the Minister's direction in exercising the administrator's powers and performing the administrator's functions.
- (2) The administrator must give the board a copy of each direction received from the Minister.
- (3) The board must include the details of each direction given to the administrator during a financial year in the board's annual report for the year under the *Financial Accountability Act 2009*.

#### **49 Effect on the board**

- (1) The board continues in existence subject to this Act.
- (2) However, the board may not exercise its powers and functions under this Act other than in giving the administrator the help the administrator asks for.

#### **50 Reports**

- (1) The administrator must give to the Minister the reports about the administration that the Minister requires.
- (2) The reports must be given as soon as practicable after the end of the appointment or at any time required by the Minister during the appointment.

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## Part 5                      Miscellaneous

### Division 1                  Offences and liability

#### 51            Offences relating to non-grammar schools

- (1) A person must not establish or operate a non-grammar school under a name that includes the word ‘grammar’.

Maximum penalty—200 penalty units.

- (2) A person must not hold out a non-grammar school to be a grammar school.

Maximum penalty—200 penalty units.

*Note—*

For the application of this section to the Anglican Church Grammar School and Sunshine Coast Grammar School, see section 69.

#### 52            Summary proceedings for offences

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.

- (2) The proceeding must start—

- (a) within 1 year after the offence was committed; or  
(b) within 6 months after the offence comes to the complainant’s knowledge, but within 2 years after the offence was committed.

- (3) A statement in a complaint for an offence against this Act that the matter of the complaint came to the complainant’s knowledge on a stated day is evidence of when the matter came to the complainant’s knowledge.

**53 Money borrowed other than under *Statutory Bodies Financial Arrangements Act 1982***

- (1) This section applies if a board borrows an amount it is not lawfully authorised to borrow under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) All the members of the board who consented to the borrowing of the amount are jointly and severally liable to repay the amount, and to pay interest on it, to the person from whom the amount was borrowed.
- (3) If an amount is appropriated from a fund administered by the board to repay the borrowed amount or interest on it, the members of the board who consented to the misappropriation of the amount are jointly and severally liable to refund—
  - (a) the misappropriated amount; and
  - (b) interest at the rate of 12% a year.
- (4) If the members of the board fail to repay an amount and interest under subsection (2) or (3), the amount may be recovered from the members by the Minister as a debt.
- (5) On recovering all or part of an amount and interest under subsection (4), the Minister—
  - (a) must pay the amount recovered—
    - (i) for an amount mentioned in subsection (2)—to the person from whom the amount was borrowed; or
    - (ii) for an amount mentioned in subsection (3)—into the fund from which the amount was appropriated; and
  - (b) is entitled to recover from the members mentioned in subsection (4) the full costs incurred in recovering the amount, including legal costs.

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## **Division 2                      Funding and donations**

### **54           Register of donors**

- (1) A board must keep a register of donors for the board's school.
- (2) The register may be kept in the form the board considers appropriate.
- (3) The register must include for each donor—
  - (a) the donor's name; and
  - (b) the particulars prescribed by regulation; and
  - (c) if the donor is eligible to vote in an election because the donor has donated the electoral eligibility amount for the board—the donor's eligibility.
- (4) However, if a person asks the board in writing to remove the person's name and particulars from the register, the board must comply with the request.
- (5) Also, the board may remove a particular mentioned in subsection (3)(b) for a donor if, after making reasonable attempts, the board can not contact the donor for the purposes of maintaining the register.
- (6) The board must ensure the register is available for inspection by the public at the office of the secretary of the board.

### **55           Donation of property other than money**

If a person donates property to a grammar school, the person is taken to have donated an amount equal to the value of the property on the day the donation is made.

## **Division 3                      Other matters**

### **56            Name under which grammar schools operate**

A grammar school must not operate under a name other than its name stated in section 6.

### **57            No religious affiliation**

The board of a grammar school must ensure the school—

- (a) is operated independently of a church or other body established for religious purposes; and
- (b) is not operated for students of a particular religion.

### **58            Disposal of assets on discontinuing a grammar school**

- (1) If a grammar school is discontinued, the property held by the board for the school is to be disposed of or held in the way prescribed by regulation.
- (2) Subsection (1) does not apply to State land granted in trust or reserved and set apart for the school under the *Land Act 1994*.
- (3) If a regulation is not made in relation to property mentioned in subsection (1), the Minister may give directions about how the property is to be disposed of or held.
- (4) The board must comply with a direction given under subsection (3).
- (5) The power to make a regulation or give directions includes the power to vary the trustees, and the terms, of any trust created under this section.
- (6) Subsections (1) and (3) do not authorise a regulation or the Minister to override a trust instrument, if the instrument—
  - (a) was created before the discontinuance of the school; and
  - (b) relates to property held by the board of the school; and

- (c) provides for the variation of the trust on the discontinuance of the school.

## 59 Delegations

- (1) A board of a grammar school may delegate its functions to the following—
  - (a) a member of the board;
  - (b) a committee of its members;
  - (c) an employee of the board, including a member of the staff of the school.
- (2) However, a board may not delegate the following—
  - (a) the power to make policies and procedures under section 11(e);
  - (b) the power to make by-laws under section 13;
  - (c) the approval of a budget under section 24.
- (3) In this section—  
*functions* includes powers.

## 60 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may impose a penalty of no more than 20 penalty units for a contravention of a regulation.
- (3) A regulation may be made about elections under this Act, including—
  - (a) a minimum or maximum amount that may be provided for in a by-law of a board as the board's electoral eligibility amount; and
  - (b) an amount that is the electoral eligibility amount for a board; and
  - (c) when an election is to be held; and

- (d) a maximum number of terms for which a person may be elected as a member of a board.

## **Part 6**                      **Repeal and transitional provisions**

### **Division 1**                **Repeal provision**

#### **61**      **Repeal**

The Grammar Schools Act 1975, No. 42 is repealed.

### **Division 2**                **Transitional provisions**

#### **62**      **Definition for division**

In this division—

*repealed Act* means the repealed *Grammar Schools Act 1975*.

#### **63**      **Continuation of boards**

- (1) A board of trustees established under the repealed Act, section 7 and in existence immediately before the commencement continues in existence as a board under this Act.
- (2) A thing done by or in relation to a board of trustees before the commencement is taken to be a thing done by or in relation to the board continued under subsection (1).
- (3) Without limiting subsection (2)—
  - (a) an appointment of a member of a board of trustees is taken to be an appointment to the board continued under subsection (1); and

- (b) a term served by a person as a member of a board of trustees before the commencement is included for the purpose of deciding the number of terms the person has served as a member of a board continued under subsection (1).

#### **64 Amounts previously donated or subscribed**

An amount donated or subscribed under the repealed Act is taken to be an amount donated under this Act.

#### **65 Eligible persons**

- (1) This section applies to a person if, before the commencement, the person had donated or subscribed to a grammar school at least the electoral eligibility amount for the school's board under the repealed Act.
- (2) The person is taken to have donated the electoral eligibility amount to the grammar school under this Act.

#### **66 Continuation of by-laws**

- (1) This section applies to a by-law made by a board under the repealed Act, section 15A.
- (2) On the commencement, the by-law continues in effect as a by-law made under section 13 until the earlier of the following—
  - (a) the day the board replaces the by-law with a new by-law made under section 13;
  - (b) the day that is 12 months after the commencement.

#### **67 Board member not disqualified under repealed Act**

A written approval or notice given to a person by the Minister under the repealed Act, section 9(2), is taken to be a written approval or notice given under section 18(2) or (3) of this Act.

## **68 Application of repealed Act for illegal borrowing**

Despite its repeal, section 29 of the repealed Act continues to apply in relation to money borrowed or appropriated by a board before the commencement.

## **69 Application of s 51**

- (1) This section applies in relation to each of the following schools—
  - (a) the Anglican Church Grammar School;
  - (b) the Sunshine Coast Grammar School.
- (2) Section 51 does not apply to the operation of the school.
- (3) For section 51(2), a person does not hold out the school to be a grammar school only by using the school's name.
- (4) Subsections (2) and (3) apply to the school only while it continues to be operated by its current operator under the name it had immediately before the commencement.
- (5) In this section—

*Anglican Church Grammar School* means the school that, immediately before the commencement, was operated under that name by its current operator.

*current operator* means—

- (a) for the Anglican Church Grammar School—The Corporation of the Synod of the Diocese of Brisbane; or
- (b) for the Sunshine Coast Grammar School—the Presbyterian and Methodist Schools Association.

*Sunshine Coast Grammar School* means the school that, immediately before the commencement, was operated under that name by its current operator.

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# Schedule 1      Dictionary

## section 5

**board**, of a grammar school, means the board of trustees for the grammar school under this Act.

**by-laws**, of a board, means the board's by-laws made under section 13.

**criminal history**, for a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

**donor**, for a grammar school, means a person who has donated money or property to the school.

**election** means an election of a member of a board for the purpose of section 14(1)(b).

**electoral eligibility amount**, for a board, means—

- (a) if a by-law of the board provides for an electoral eligibility amount—the amount provided for under the by-law; or
- (b) otherwise—the amount prescribed by regulation under section 60.

**grammar school** see section 6.

**interested parents** see section 42.

**member**, of a board, see section 14(1).

**non-grammar school** means—

- (a) a State school within the meaning of the *Education (General Provisions) Act 2006*, schedule 4; or
- (b) a non-State school within the meaning of the *Education (Accreditation of Non-State Schools) Act 2017*, section 6 that is not a grammar school.